

**Vermont**  
**Adult**  
**Protective**  
**Services**  
**Guidebook**

FIFTH EDITION

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## **1 Vermont APS Overview**

### **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 (see Chapter 2). APS is a program within 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 as a result of complaints and self-reports from the facilities.

## 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.

## INTAKE AND SCREENING

APS receives intakes directly from reporters. . Within two business days of receiving a complete intake 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 an assessment to help 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.

## ASSESSMENT

An assessment may be used to determine whether an investigation is necessary. The Department shall begin either an assessment or an investigation within one business day in all cases in which the alleged victim has experienced a life-threatening or severe injury; requires hospitalization as a result of maltreatment; was the alleged victim of sexual abuse; or is experiencing ongoing harm. The Department shall initiate an assessment or an investigation within two business days after the day of the receipt of all other accepted reports.

## 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.

## 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.

## 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).

## 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 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.

## **2 Vermont's APS Statute**

Title 33 of Vermont Statutes defines the State's responsibility for investigating allegations of abuse, neglect and exploitation of vulnerable adults. The Vermont Legislature enacted an updated APS statute that went into effect on July 1, 2023. The updated statute reads as follows:

## **Title 33: Human Services**

### **Chapter 69: Reports of Abuse, Neglect, and Exploitation of Vulnerable Adults**

#### **Subchapter 1: Reports of Abuse of Vulnerable Adults**

##### **§ 6901. Purpose**

(a) The purpose of this chapter is to:

(1) protect vulnerable adults whose health and welfare may be adversely affected through abuse, neglect, or exploitation;

(2) recognize and accommodate the barriers for vulnerable adults that may impair both their response to maltreatment and the ability to substantiate allegations of maltreatment; and

(3) require the reporting of suspected abuse, neglect, and exploitation of vulnerable adults, the investigation of such reports, and the establishment of protective services, when needed.

(b) The provision of protective services under this chapter shall not cause undue harm or violate the individual's autonomy and shall provide opportunities for the vulnerable adult's



preferences to be considered. (Added 1979, No. 150 (Adj. Sess.); amended 1985, No. 78, § 1; 2001, No. 135 (Adj. Sess.), § 17, eff. June 13, 2002; 2023, No. 81, § 1, eff. July 1, 2023.)

## **§ 6902. Definitions**

As used in this chapter:

(1) “Abuse” means:

(A) Any medical treatment that purposely, knowingly, or recklessly places the life, health, or welfare of a vulnerable adult in jeopardy or is likely to result in impairment of health to the vulnerable adult.

(B) Any conduct committed purposely, knowingly, or recklessly that is likely to cause unnecessary harm, unnecessary pain, or unnecessary suffering to a vulnerable adult or places the life, health, or welfare of a vulnerable adult in jeopardy or is likely to result in impairment of health to the vulnerable adult.

(C) Confinement, seclusion, restraint, or interference with the freedom of movement of a vulnerable adult, unless necessary to ensure the health and safety of the vulnerable adults or others.

(D)(i) Any sexual activity or acts of a sexual nature with a vulnerable adult by a caregiver. This definition shall not apply to a consensual relationship between a vulnerable adult and a spouse or household member as defined in 15 V.S.A. § 1101, or to a consensual relationship between a vulnerable adult and a caregiver hired, supervised, and directed by the vulnerable adult.

(ii) Any sexual activity or acts of a sexual nature with a vulnerable adult when the vulnerable adult does not consent or when the individual knows or should know that the vulnerable adult is incapable of resisting or consenting to the sexual activity due to age, disability, or fear of retribution or hardship, regardless of whether the individual has actual knowledge of the adult's status as a vulnerable adult.

(E) Purposely or recklessly subjecting a vulnerable adult to behavior that a reasonable person would expect to result in serious emotional or psychological distress, including intimidation, fear, humiliation, degradation, agitation, or disorientation.

(F) Administration, or threatened administration, of a drug or substance to a vulnerable adult for a purpose other than legitimate and lawful medical or therapeutic treatment.

(G) Wrongful denial or withholding of necessary medication, care, durable medical equipment, or treatment.

(H) Use of deception, force, threat, undue influence, harassment, duress, or fraud to induce a vulnerable adult to request or consent to receive or refuse treatment.

(2) “Activities of daily living” means dressing and undressing, bathing, personal hygiene, bed mobility, toilet use, transferring, mobility in and around the home, communication, and eating.

(3) “Acts of a sexual nature” means fondling, exposure of genitals, and lewd and lascivious conduct.

(4) “Adult” means any individual who is 18 years of age or older.

(5) “Alleged perpetrator” means the individual alleged to have abused, neglected, or exploited the alleged victim.

(6) “Alleged victim” means the individual who is alleged to have been abused, neglected, or exploited by the alleged perpetrator.

(7) “Assessment” means a process by which Adult Protective Services gathers additional information to determine if an investigation should be opened.

(8) “Care” means subsistence, medical services, personal care services, mental health services, or rehabilitative services and includes assistance with activities of daily living or instrumental activities of daily living.

(9) “Caregiver” means:

(A) a worker or employee in a facility or program that provides care to an adult who is an elder or has a disability and who has assumed the responsibility voluntarily, by contract, or by an order of the court; or

(B) a person with a designated responsibility for providing care to a person that is required because of the person’s age or disability.

(10) “Commissioner” means the Commissioner of Disabilities, Aging, and Independent Living.

(11) “Department” means the Department of Disabilities, Aging, and Independent Living.

(12) “Employer” means a person or organization

who employs or contracts with one or more individuals to care for vulnerable adults, on either a paid or volunteer basis.

(13) “Exploitation” means:

(A) willfully or knowingly using, withholding, transferring, or disposing of funds or property of a vulnerable adult without or in excess of legal authority to the detriment of a vulnerable adult;

(B) purposeful unauthorized access, sharing, or use of identifying information, image or likeness, personal accounts, or documents of a vulnerable adult without or in excess of legal authority to the detriment of the vulnerable adult or for the wrongful profit or advantage of another;

(C) breach of duty by a guardian, agent, or other fiduciary to the detriment of a vulnerable adult;

(D) acquiring or attempting to acquire possession or control of or an interest in funds or property of a vulnerable adult through the use of deception, force, threat, undue influence, harassment, duress, or fraud;

(E) refusing to return or surrender possession or control of an interest in funds or property of a vulnerable adult upon the request of a vulnerable adult or the vulnerable adult’s representative;

(F) knowingly failing to use a vulnerable adult's income and assets for the necessities required for that vulnerable adult's support and maintenance;

(G) influencing or persuading a vulnerable adult to perform services with substandard compensation for the profit or advantage of another.

(14) "Expungement" means the removal of an individual's name and associated identifying information from the Adult Abuse Registry.

(15) "Instrumental activities of daily living" means meal preparation, medication management, phone use, money management, household maintenance, housekeeping, laundry, shopping, transportation, and care of adaptive equipment.

(16) "Interested person" means a representative of the vulnerable adult; Adult Protective Services staff; the Commissioner of Disabilities, Aging, and Independent Living; or the Commissioner's designee.

(17) "Investigative summary report" means the document that summarizes the investigation conducted by Adult Protective Services and includes a recommendation to substantiate or

unsubstantiate the investigated allegations against the alleged perpetrator.

(18) “Lewd or lascivious conduct” has the same meaning as in 13 V.S.A. § 1375.

(19) “Maltreatment” means abuse, neglect, or exploitation as defined in this section.

“Maltreatment” does not include self-neglect.

(20) “Mandatory reporter” means an individual with an obligation to report allegations of maltreatment of vulnerable adults pursuant to 6903 of this title.

(21)(A) “Neglect” means purposeful, knowing, or reckless failure or omission by a caregiver that has resulted in, or could be expected to result in, physical or psychological harm, including a failure or omission to:

(i) provide care or arrange for goods or services necessary to maintain the health or safety of a vulnerable adult, including food, clothing, medicine, shelter, supervision, and medical services, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or the vulnerable adult’s representative, or an advance directive, as defined in 18 V.S.A. § 9701;

(ii) make a reasonable effort, in accordance with the authority granted the caregiver, to protect a vulnerable adult from abuse, neglect, or exploitation by others;

(iii) carry out a plan of care for a vulnerable adult unless the caregiver is acting pursuant to the wishes of the vulnerable adult or the vulnerable adult's representative, or an advance directive, as defined in 18 V.S.A. § 9701; or

(iv) 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.

(B) Neglect does not include self-neglect.

(22) "Plan of care" means a medically approved plan of treatment, protocol, individual care plan, rehabilitative plan, plan to address activities of daily living, or similar procedure describing the care, treatment, or services to address a vulnerable adult's physical, psychological, or rehabilitative needs.



(23) “Protective services” means services, actions, measures, or interventions that are intended, through voluntary agreement or through appropriate court action, to prevent further neglect, abuse, or exploitation of a vulnerable adult. Such services may include referrals, petitioning for relief from abuse, or petitioning for the appointment of a guardian.

(24) “Provider” means an individual, organization, or entity that provides care to adults known to be vulnerable.

(25) “Recommendation for substantiation” means that an investigation has been conducted and the Adult Protective Services investigator has concluded that the preponderance of the evidence discovered in the course of the investigation would lead a reasonable person to believe that the alleged perpetrator abused, neglected, or exploited the vulnerable adult.

(26) “Report” means the statements provided to Adult Protective Services from a reporter alleging that a vulnerable adult has been abused, neglected, or exploited.

(27) “Reporter” means the person who has submitted a report to Adult Protective Services.

(28) “Representative” means a court-appointed guardian, an agent acting under an advance directive executed pursuant to 18 V.S.A. chapter 231, or an agent under a power of attorney, unless otherwise specified in the terms of the power of attorney.

(29)(A) “Self-neglect” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including:

- (i) obtaining essential food, clothing, shelter, and medical care;
- (ii) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or
- (iii) managing one’s own financial affairs.

(B) The term “self-neglect,” which is not maltreatment by another and is distinct from the definition of “neglect,” excludes individuals who make a conscious and voluntary choice not to provide for certain basic needs as a matter of lifestyle, personal preference, or religious belief and who understand the consequences of their decision.

(30) “Sexual activity” means a sexual act as defined in 13 V.S.A. § 3251 other than appropriate medical care or personal hygiene.

(31) “Substantiated” means that the Commissioner or the Commissioner’s designee has determined, after the investigation, that a report demonstrates, by a preponderance of the evidence, that the vulnerable adult has been abused, neglected, or exploited by the alleged perpetrator.

(32) “Unsubstantiated” means that an investigation has been conducted without a recommendation of substantiation.

“Unsubstantiated” does not imply that maltreatment of a vulnerable adult by an alleged perpetrator did or did not occur. Reasons for unsubstantiation include:

(A) the Adult Protective Services investigator’s conclusion that the preponderance of the evidence would not lead a reasonable person to believe that the alleged perpetrator had abused, neglected, or exploited the vulnerable adult;

(B) evidence that the alleged victim is not vulnerable;

(C) evidence that maltreatment did not occur; or

(D) a lack of sufficient evidence to demonstrate that the alleged victim meets the definition of a vulnerable adult or that maltreatment occurred.

(33) “Volunteer” means an individual who, without compensation, provides services through a private or public organization.

(34) “Vulnerable adult” means any person 18 years of age or older who:

(A)(i) is a resident of a facility required to be licensed under chapter 71 of this title;

(ii) is a resident of a psychiatric hospital or a psychiatric unit of a hospital;

(B) was receiving assistance with personal care services for more than one month from a designated home health agency or from a person or organization that offers, provides, or arranges for personal care or is determined to be clinically eligible to receive Long-Term Medicaid waiver services; or

(C) regardless of residence or whether any type of service is received, has a physical, mental, or developmental disability; infirmities as a result of

brain damage or a mental condition; or infirmities of aging resulting in:

(i) impairment of the individual's ability to independently engage in activities of daily living or instrumental activities of daily living or to provide for some aspect of the adult's own personal care without assistance; or

(ii) some impairment of the adult's ability to protect the adult from abuse, neglect, or exploitation. (Added 1979, No. 150 (Adj. Sess.); amended 1983, No. 203 (Adj. Sess.), § 1; 1985, No. 78, § 2; 1993, No. 100, § 1; 2001, No. 135 (Adj. Sess.), §§ 3, 17, eff. June 13, 2002; 2005, No. 174 (Adj. Sess.), § 130; 2013, No. 96 (Adj. Sess.), § 215; 2013, No. 131 (Adj. Sess.), § 84, eff. May 20, 2014; 2015, No. 23, §§ 63, 64; 2015, No. 97 (Adj. Sess.), § 69; 2021, No. 20, § 344; 2023, No. 81, § 1, eff. July 1, 2023.)

**§ 6903. Reporting suspected abuse, neglect, and exploitation of vulnerable adults**

(a) All employees, contractors, volunteers, or grantees who directly provide health care, law enforcement, caregiving, counseling, education, or social services to adults who know of information of abuse, neglect, or exploitation of a

vulnerable adult or who have reason to suspect that any vulnerable adult has been abused, neglected, or exploited shall report in accordance with the provisions of section 6904 of this title within two business days.

(1) If an individual listed in this subsection is a direct witness to evidence of abuse, neglect, or exploitation, the individual shall report or be party to a report that is made on behalf of multiple mandatory reporters.

(2) If an individual listed in this subsection knows of abuse, neglect, or exploitation of a vulnerable adult or has actual knowledge that any vulnerable adult has been abused, neglected, or exploited, the individual shall report unless the individual has reason to believe that the evidence of abuse, neglect, or exploitation has already been reported.

(3) Except as provided in subdivision (4) of this subsection (a), an individual listed in this subsection (a) shall not refuse to make a report required by this section on the grounds that making the report would violate a privilege or disclose a confidential communication.

(4) A crisis worker acting pursuant to 12 V.S.A. § 1614 and the State Long-Term Care Ombudsman

or a designee of the Office, as defined in section 7501 of this title, shall not be required to make a report under this subsection (a) if the report would be based upon information received in a communication that is:

(A) made to a crisis worker or State Long-Term Care Ombudsman or a designee of the Office acting in the individual's professional capacity; and

(B) intended by the parties to be confidential at the time the communication is made.

(b) Any other concerned person not listed in subsection (a) of this section who knows of or has received a complaint of abuse, neglect, or exploitation of a vulnerable adult or who has reason to suspect that any vulnerable adult has been abused, neglected, or exploited may report or cause a report to be made in accordance with the provisions of section 6904 of this title.

(c) The identity of a person who makes a report under this section shall be kept confidential unless:

(1) the person making the report consents to disclosure;

- (2) a judicial proceeding results from the report;
- (3) a court, after a hearing, finds probable cause to believe the report was not made in good faith and orders the Department to disclose the person's identity; or
- (4) the reporter is listed in subdivision (a)(1) of this section, in which case the reporter's information may be shared with other investigative bodies as necessary to conduct the investigation. (Added 1979, No. 150 (Adj. Sess.); amended 1985, No. 78, § 3; 1985, No. 151 (Adj. Sess.), § 15; 1985, No. 208 (Adj. Sess.), § 20, eff. June 30, 1986; 1989, No. 76, § 1; 1993, No. 100, § 2; 2001, No. 135 (Adj. Sess.), §§ 4, 17, eff. June 13, 2002; 2013, No. 34, § 30a; 2013, No. 96 (Adj. Sess.), § 216; 2013, No. 131 (Adj. Sess.), § 85, eff. May 20, 2014; 2017, No. 23, § 2; 2023, No. 81, § 1, eff. July 1, 2023.)

**§ 6904. Nature and content of report; to whom made**

A report shall be made to the Commissioner or the Commissioner's designee. To be considered a report to the Commissioner or designee, it shall contain the name and address of the reporter as well as the names and addresses of the vulnerable



adult and persons responsible for the vulnerable adult's care, if known; the age of the vulnerable adult; the nature of the vulnerable adult's disability; the nature and extent of the vulnerable adult's abuse, neglect, or exploitation together with any evidence of previous abuse, neglect, or exploitation of the vulnerable adult; and any other information that the reporter believes might be helpful in establishing the cause of any injuries or reasons for the abuse, neglect, or exploitation as well as in protecting the vulnerable adult. If the reporter is in possession of documentation that establishes the alleged victim's conditions, needs, or services, that shall be included in the report. Any evidence of maltreatment shall also be cited in the report. If a report of abuse, neglect, or exploitation involves the acts or omissions of the Commissioner or employees of the Department, then such reports shall be directed to the Secretary of Human Services, who shall cause the report to be investigated by appropriate staff other than staff of the Department. (Added 1979, No. 150 (Adj. Sess.); amended 1985, No. 78, § 4; 1989, No. 76, § 2; 1993, No. 100, § 3; 2001, No. 135 (Adj. Sess.), § 17, eff. June 13, 2002; 2023, No. 81, § 1, eff. July 1, 2023.)

**§ 6905. Mandatory reporting to and postmortem investigation of deaths by the Office of the Chief Medical Examiner**

When a person making a report of suspected abuse, neglect, or exploitation of a vulnerable adult has reasonable cause to believe that a vulnerable adult died as a result of abuse or neglect, the Department shall notify the Office of the Chief Medical Examiner immediately. (Added 1985, No. 78, § 5; amended 2001, No. 135 (Adj. Sess.), § 17, eff. June 13, 2002; 2015, No. 135 (Adj. Sess.), § 2.)

**§ 6906. Assessment and investigation**

(a) Report of maltreatment.

(1) Upon receipt of a report of maltreatment, the Department shall determine whether the report constitutes an allegation of abuse, neglect, or exploitation as defined in section 6902 of this title. The Department shall respond to reports of alleged abuse, neglect, or exploitation that occurred in Vermont and to out-of-state conduct when the vulnerable adult is a resident of Vermont.

(2) The Department shall determine whether to conduct an assessment or an investigation, as

provided for in this section, or whether to screen out the report. An assessment may be used to determine whether an investigation is necessary. The Department shall begin either an assessment or an investigation within one business day in all cases in which the alleged victim has experienced a life-threatening or severe injury; requires hospitalization as a result of maltreatment; was the alleged victim of sexual abuse; or is experiencing ongoing harm. The Department shall initiate an assessment or an investigation within two business days after the day of the receipt of all other accepted reports made pursuant to section 6904 of this title. The Department shall collect the following demographic information about the alleged victim and alleged perpetrator, if available, if an assessment or investigation is opened: gender, race, age, ethnicity, sexual orientation, gender identity, and disability status.

(3) The decision to conduct an assessment shall include consideration of the following factors:

(A) the severity of any alleged maltreatment and any injuries;

(B) the relationship between the alleged victim and alleged perpetrator;

(C) the known history of the report; and

(D) the detail and specificity of information provided in the report regarding the alleged victim's vulnerability and the alleged maltreatment.

(4) The Department shall investigate when an accepted report involves allegations indicating serious maltreatment or ongoing risk of harm to the alleged victim. The Department may investigate any report of maltreatment Adult Protective Services receives.

(5) The Department shall begin an immediate investigation if, at any time during an assessment, it appears that an investigation is appropriate.

(6) To the extent permitted by law, the Department may collaborate with law enforcement, health care and service providers, and other departments and agencies in Vermont and other jurisdictions to evaluate the risk to the vulnerable adult and may enter into reciprocal agreements with law enforcement, other departments and agencies, and other jurisdictions to further the purposes of this section. In no event shall the Department disclose information to other divisions, departments, or agencies

unless such a disclosure is necessary to further the express purpose of this section.

(b) Assessment.

(1) An assessment, to the extent that is reasonable under the facts and circumstances provided in a report, shall include the following:

(A) an interview with the reporter and the alleged victim, which shall focus on ensuring the immediate safety of the alleged victim and mitigating the future risk of harm to the alleged victim in the current environment;

(B) a determination as to whether the alleged victim meets the definition of a vulnerable adult and whether the allegations, if true, meet the statutory definition of abuse, neglect, or exploitation, or any combination thereof; and

(C) in collaboration with the alleged victim, the identification of resources and protective service needs that reduce the risk of future abuse, neglect, or exploitation and improve or restore the care and safety of the alleged victim.

(2) Services offered during or at the conclusion of an assessment can only be implemented through voluntary agreement or court action.

(3) If the assessment is closed without resulting in an investigation, there shall be no finding of abuse, neglect, or exploitation. However, the Department shall document the outcome of the assessment.

(4) The Department shall provide written notice to the victim, and the victim's representative who is not the subject of the assessment, of the outcome of the assessment.

(c) Investigation.

(1) The Department shall:

(A) Notify the reporter in writing if Adult Protective Services decides not to investigate or to conduct an assessment of the report. The notification shall be provided within five business days after the decision is made and shall inform the reporter that the reporter may ask the Commissioner to review the decision.

(B) Notify the alleged victim, and the alleged victim's representative, if any, in writing of the outcome of the investigation. The notification shall be provided within five business days after the decision has been made and shall inform the alleged victim or the alleged victim's

representative that the alleged victim or the alleged victim's representative may ask the Commissioner to review the decision.

(2) The investigation shall include, except where inclusion would jeopardize the health, welfare, or safety of the vulnerable adult:

(A) An interview with the alleged victim, which may take place without the approval of the alleged victim's parents, guardian, or caregiver, but cannot take place over the objection of the alleged victim.

(B) An opportunity for the person who allegedly abused, neglected, or exploited the alleged victim to be interviewed. If the person declines to be interviewed, either through given notice or failure to respond, the alleged perpetrator shall be notified that the alleged perpetrator's declination may be noted in the investigation and may be taken into account in any potential appeal process.

(3) Upon completion of the investigation, the investigative summary describing pertinent evidence obtained during the course of the investigation and recommending a substantiation or unsubstantiation shall be submitted to the

Commissioner or designee. Prior to substantiation, the Department shall interview the alleged perpetrator unless the alleged perpetrator declines. The investigative summary shall include a recommendation of whether placement on the Registry is appropriate. If the recommendation is for substantiation, the alleged perpetrator shall be given written notice by certified mail of the recommendation and a summary of the evidence that forms the basis of the recommendation and shall be notified of any remedial options that may exist and how a substantiated report might be used. The alleged perpetrator may seek an administrative review of the Department's intention to place the alleged perpetrator's name on the Registry by notifying the Department within 14 calendar days after the date listed on the Department's notice of the right to an administrative review. The Commissioner may grant an extension past the 14-day period for good cause, not to exceed 28 calendar days after the date listed on the Department's notice.

(4) The administrative review of the Department's intention to substantiate may be stayed if there is a related case pending in the Criminal or Family Division of the Superior Court that arose out of the same incident of



abuse, neglect, or exploitation that resulted in the recommendation for substantiation. During the period the administrative review is stayed, if the Department's intent is to place the alleged perpetrator's name on the Registry, it shall add the alleged perpetrator's name to the Registry with a notation that the case is pending. Upon resolution of the Superior Court criminal or family case, the alleged perpetrator may exercise the alleged perpetrator's right to review under this section by notifying the Department in writing within 28 calendar days after the related court case, including any appeals, has been fully adjudicated. If the alleged perpetrator fails to notify the Department within 28 calendar days, the Department's decision shall become final, and no further review under this subsection is required.

(A) The Department shall hold an administrative review within 28 calendar days after receipt of the request for review. At least 14 calendar days prior to the administrative review, the Department shall provide to the alleged perpetrator requesting an administrative review the following: the redacted investigation file, which means only the portion of the investigation file relevant to an Adult Protective Services recommendation,

redacted as necessary to minimize disclosure of any confidential information; notice of time and place of the administrative review; and administrative review procedures, including information that may be submitted and mechanisms for providing information.

(B) At the administrative review, the alleged perpetrator who requested the review shall be provided with the opportunity to present documentary evidence or other information that supports the alleged perpetrator's position and provides information to the reviewer in making the most accurate decision regarding the allegation. In determining the weight to be given any such evidence or information, the administrative reviewer shall consider whether the alleged perpetrator had an opportunity to present the evidence or information to the investigator during the investigation and, if so, the reasons for the failure to present the evidence or information at that time. The Department shall have the burden of proving that, based upon a preponderance of evidence, it concluded that a reasonable person would believe that the vulnerable adult has been abused, neglected, or exploited by that alleged perpetrator. The administrative review may be held remotely by

telephone or through electronic means by mutual agreement of the parties.

(C) The Department shall establish an administrative case review unit within the Department and may contract for the services of administrative reviewers. An administrative reviewer shall be a neutral and independent arbiter who has no prior involvement in the original investigation of the allegation.

(5) Within seven calendar days after the completed review, the administrative reviewer shall:

(A) reject the Department's recommendation of substantiation;

(B) accept the Department's recommendation of substantiation; or

(C) defer any recommendation and direct the Department to further investigate upon the recommendation of the administrative reviewer.

(6) If the administrative reviewer accepts the Department's recommendation of substantiation, a Registry record shall be made within two business days. If the administrative reviewer rejects the Department's recommendation of

substantiation, no Registry record shall be made.

(7) Within seven calendar days of the decision to reject or accept the recommendation of substantiation or to defer the substantiation in accordance with subdivision (5) of this subsection, the administrative reviewer shall provide notice to the alleged perpetrator of the administrative reviewer's decision. If the administrative reviewer accepts the Department's recommendation of substantiation, the notice shall advise the alleged perpetrator of the right to appeal the administrative reviewer's decision to the Human Services Board.

(8)(A) If no administrative review is requested, the Department's recommendation in the case shall be final, and the alleged perpetrator shall have no further right of review under this section.

(B) The Commissioner may grant an exception and permit such an administrative review upon good cause shown. Good cause may include an acquittal or dismissal of a criminal charge arising from the incident of abuse, neglect, or exploitation.

(9) In exceptional circumstances, the Commissioner, in the Commissioner's sole and

nondelegable discretion, may reconsider any decision made by an administrative reviewer. A Commissioner's decision that imposes a penalty or creates a Registry record may be appealed to the Human Services Board.

(10) Within 30 calendar days after the date of the notice advising that a report has been substantiated, an alleged perpetrator against whom a complaint has been lodged may apply to the Human Services Board for relief on the grounds that it is unsubstantiated. The Human Services Board shall hold a fair hearing under 3 V.S.A. § 3091. Unless the Commissioner agrees otherwise, the hearing shall be given priority by the Human Services Board, and an expedited hearing shall be provided, not later than 30 calendar days after the date of the notice advising that a report has been substantiated, and a decision shall be issued within seven calendar days after the hearing.

(11) If a report is found to be unsubstantiated, the records shall be retained as part of the confidential records of the Department. If no court proceeding is brought pursuant to section 6903 of this title within six years following the date of the notice to the alleged perpetrator

against whom the complaint was lodged, the records relating to the unsubstantiated report may be destroyed.

(12) If the Human Services Board reverses a substantiated finding, the Commissioner shall remove all information from the Registry.

(13)(A) When a final determination has been made, the Commissioner shall inform the vulnerable adult or the vulnerable adult's representative in writing.

(B) When a final determination of substantiation has been made, the Department shall also inform the perpetrator's current employer, if known, in writing of the outcome of the investigation and any subsequent proceedings. (Added 1979, No. 150 (Adj. Sess.); amended 1983, No. 203 (Adj. Sess.), § 2; 1985, No. 78, § 6; 1993, No. 100, § 4; 2001, No. 135 (Adj. Sess.), §§ 5, 17, eff. June 13, 2002; 2005, No. 79, § 6; 2005, No. 174 (Adj. Sess.), § 131; 2023, No. 81, § 1, eff. July 1, 2023.)

### **§ 6907. Remedial action**

(a) Protective services. If the investigation produces evidence that the vulnerable adult has been abused, neglected, or exploited, and

protective services are not in place, the Department shall pursue available protective services.

(b) Consent to services.

(1) Protective services shall be provided only with the consent of the vulnerable adult; the vulnerable adult's guardian, agent under power of attorney, or agent under advance directive; or through appropriate court action. If the vulnerable adult does not consent, protective services shall not be provided, unless provision of protective services is court ordered.

(2)(A) In the event that the vulnerable adult's guardian is the person responsible for the abuse, neglect, or exploitation, and the guardian refuses consent to the investigation or the alleged victim's protective services, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant 14 V.S.A. § 3062(c).

(B) In the event that the vulnerable adult's agent under power of attorney is the person responsible for the abuse, neglect, or exploitation, and the agent refuses to consent to the investigation or the alleged victim's protective services, the

investigator may seek review of the agent's refusal by filing a petition in Superior Court pursuant to 14 V.S.A. § 3510(b).

(C) In the event that the vulnerable adult's agent under advance directive is the person responsible for the abuse, neglect, or exploitation, and the agent does not consent to the investigation or the receipt of protective services, the investigator may file a petition in Probate Court pursuant to 18 V.S.A. § 9718 to seek review under subdivision (b)(3) of that section as to whether the refusal is consistent with the authority granted to the agent in the advance directive.

(3) Failure to consent to protective services, either by the vulnerable adult or the vulnerable adult's guardian, agent under power of attorney, or agent under advance directive shall not automatically end an investigation of an alleged perpetrator. (Added 1985, No. 78, § 7; amended 2001, No. 135 (Adj. Sess.), § 6, eff. June 13, 2002; 2023, No. 81, § 1, eff. July 1, 2023.)

### **§ 6908. Immunity from liability**

Any person who in good faith makes a report under section 6904 of this title alleging abuse, neglect, or exploitation shall be immune from any



liability, civil or criminal, for making the report. Nothing in this section grants civil or criminal immunity to any person suspected of having abused, neglected, or exploited a vulnerable adult. (Added 1985, No. 78, § 8; amended 2001, No. 135 (Adj. Sess.), § 17, eff. June 13, 2002.)

**§ 6909. Retaliatory action by employer prohibited**

No employer or supervisor may discharge; demote; transfer; reduce pay, benefits, or work privileges; prepare a negative work performance evaluation; or take any other action detrimental to any employee who files a good faith report in accordance with the provisions of this chapter, by reason of the report. Any person making a report under this chapter shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of making a report. Nothing in this section grants immunity to a person reporting the person's own perpetration of maltreatment. (Added 1985, No. 78, § 9; amended 2013, No. 131 (Adj. Sess.), § 86, eff. May 20, 2014; 2023, No. 81, § 1, eff. July 1, 2023.)

**§ 6910. Interference by caregiver**

If consent to receive protective services has been obtained in accordance with section 6907 of this title and the Commissioner has reasonable cause to believe that the caregiver is interfering with the provision of those protective services, the Department may petition the Superior Court for an order enjoining the caregiver from interfering with the provision of protective services. The petition shall present facts to show that the vulnerable adult is in need of protective services, that the vulnerable adult or the vulnerable adult's representative consents to the receipt of protective services, and that the caregiver has interfered with the provision of protective services. If the court, after hearing, finds that the vulnerable adult requires and consents to protective services, and has been prevented by the vulnerable adult's caregiver from receiving protective services the court may issue an order enjoining the caregiver from further interference. (Added 1985, No. 78, § 10; amended 1993, No. 100, § 5; 2001, No. 135 (Adj. Sess.), § 17, eff. June 13, 2002; 2023, No. 81, § 1, eff. July 1, 2023.)

## **§ 6911. Records of abuse, neglect, and exploitation**

(a) Access to records.

(1) Subject to confidentiality or privilege protections, except those provided by the Health Insurance Portability and Accountability Act of 1996, its corresponding regulations, and 18 V.S.A. § 1881, the Department's Adult Protective Services shall have access to any records or documents, including client-identifying information, financial records, and medical and psychological records, necessary to the performance of the Department's duties under this chapter. The duties include the investigation of abuse, neglect, or exploitation or the provision of protective services to a vulnerable adult. A person, agency, or institution that has a record or document that the Department needs to perform its duties under this chapter shall, without unnecessary delay, make the record or document available to the Department. For the purposes of this subsection, "financial records" does not include records developed or maintained by the Department of Financial Regulation.

(2) The Department is exempt from the payment of a fee otherwise required or authorized by law

to obtain a financial record from a person, agency, or institution or a medical record, including a mental health record, from a hospital or health care provider if the request for a record is made in the course of an investigation by the Department.

(3) If the Department cannot obtain access to a record or document that is necessary to properly investigate or to perform another duty under this chapter, the Department may petition the Superior Court for access to the record or document.

(4) On good cause shown, the court shall order the person, agency, or institution in possession or control of a record or document to allow the Department to have access to that record or document under the terms and conditions prescribed by the court.

(5) A person, agency, or institution in possession or control of a requested record or document is entitled to notice and a hearing on a petition filed under this section.

(6) Access to a confidential record under this section does not constitute a waiver of confidentiality.

(7) A person who in good faith makes an alleged victim's information or a copy of the information available to an investigator in accordance with this section shall be immune from civil or criminal liability for disclosure of the information unless the person's actions constitute negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult.

(b) Confidentiality of reports and documents.

(1)(A) Information obtained through reports to and assessments and investigations conducted by the Department, including the identity of the reporter, shall be confidential and shall not be released absent a court order, except the final investigative summary report shall be disclosed only to:

(i) the Commissioner or person designated to receive such records;

(ii) persons assigned by the Commissioner to investigate reports;

(iii) the alleged perpetrator;

- (iv) the vulnerable adult or the vulnerable adult's representative;
  - (v) the Office of Professional Regulation when deemed appropriate by the Commissioner;
  - (vi) the Secretary of Education when deemed appropriate by the Commissioner;
  - (vii) the Commissioner for Children and Families or designee for purposes of review of expungement petitions filed pursuant to section 4916c of this title;
  - (viii) the Commissioner of Financial Regulation when deemed appropriate by the Commissioner for an investigation related to financial exploitation;
  - (ix) a law enforcement agency; and
  - (x) the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation.
- (B) When disclosing information pursuant to this subdivision (1), reasonable efforts shall be made to limit the information to the minimum

necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

(2) Relevant information may be disclosed to the Secretary of Human Services, or the Secretary's designee, for the purpose of remediating or preventing abuse, neglect, or exploitation; to assist the Agency in its monitoring and oversight responsibilities; and in the course of a relief from abuse proceeding, guardianship proceeding, or any other court proceeding when the Commissioner deems it necessary to protect the victim, and the victim or the victim's representative consents to the disclosure. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order. Disclosures necessary to conduct Adult Protective Services investigations or to make referrals to law enforcement agencies, or to divisions or grantees of the Department, shall be permitted, but reasonable efforts shall be made to limit the information to the minimum

necessary to accomplish the intended purpose of the disclosure.

(3) Notwithstanding subdivision (a)(1) of this section, financial information made available to an adult protective services investigator pursuant to this section may be used only in a judicial or administrative proceeding or investigation directly related to a report required or authorized under this chapter. Relevant information may be disclosed to the Secretary of Human Services, pursuant to subdivision (2) of this subsection.

(c) The Department shall maintain a registry of substantiated caregivers that shall contain the following information:

- (1) the date and nature of the finding;
- (2) the names of individuals convicted of a crime pursuant to 13 V.S.A. § 1383; and
- (3) in addition, aside from a caregiver's name, at least one other personal identifier to prevent the possibility of misidentification.

(d) Disclosure of Registry information.

(1) The Commissioner or designee may disclose Registry information only to:



(A) The State's Attorney or the Attorney General.

(B) The public as required by the Nursing Home Reform Act of 1986 and regulations promulgated under the Act.

(C) An employer if such information is used to determine whether to hire or retain a specific individual providing care, custody, treatment, transportation, or supervision of children or vulnerable adults. Notwithstanding section 6902 of this chapter, "employer," as used in this section, means a person or organization who employs or contracts with one or more individuals to care for or provide transportation services to children or vulnerable adults, on either a paid or volunteer basis. The employer may submit a request concerning a current employee, volunteer, grantee, or contractor or an individual to whom the employer has given a conditional offer of a contract, volunteer position, or employment. If that individual has a record of a substantiated report, the Department shall provide the Registry information to the employer.

(D) An individual seeking to determine if the individual's own name is on the Registry.

(E) A person or organization serving vulnerable

adults by assisting with employer functions; offering, providing, or arranging for home sharing; or providing personal care services, developmental services, or mental health services for vulnerable adults. The person or organization may submit a request concerning an individual who has applied to provide such services or an individual who is already so engaged. If the person has a record of a substantiated report, the Commissioner shall provide the Registry information.

(F) The Commissioner for Children and Families or designee for purposes related to:

(i) the licensing or registration of facilities and individuals regulated by the Department for Children and Families; and

(ii) the Department's child protection obligations under chapters 49–59 of this title.

(G) The Commissioner of Health or the Commissioner's designee for purposes related to oversight and monitoring of persons who are served by or compensated with funds provided by the Department of Health, including persons to whom a conditional offer of employment has been made.

- (H) Upon request or when relevant to other states' adult protective services offices.
- (I) The Board of Medical Practice for the purpose of evaluating an applicant, licensee, or holder of certification pursuant to 26 V.S.A. § 1353.
- (J) The Secretary of Education or the Secretary's designee, for purposes related to the licensing of professional educators pursuant to 16 V.S.A. chapter 5, subchapter 4 and chapter 51.
- (K) The Office of Professional Regulation for the purpose of evaluating an applicant, licensee, holder of a certification, or registrant for possible unprofessional conduct, where appropriate.
- (L) A Family Division of the Superior Court upon request of that court if it is involved in any proceeding in which:
- (i) a parent of a child challenges a presumption of parentage under 15C V.S.A. § 402(b)(3); or
  - (ii) a parent of a child contests an allegation that the parent fostered or supported a bonded and dependent relationship between the child and a person seeking to be adjudicated a de facto parent under 15C V.S.A. § 501(a)(2).

(M) The Cannabis Control Board for the purpose of evaluating an individual's suitability to be a registered caregiver under 7 V.S.A. § 954.

(2) The request for disclosure of Registry information pursuant to subdivisions (1)(C), (1)(E)–(G), and (1)(I)–(K) of this subsection shall be in writing and accompanied by a release from the person applying for or already providing services to children or vulnerable adults.

(e) An employer providing transportation services to children or vulnerable adults may disclose Registry records obtained pursuant to subdivision (d)(1)(C) of this section to the Agency of Human Services or its designee for the sole purpose of auditing the records to ensure compliance with this chapter. An employer shall provide such records at the request of the Agency or its designee. Only Registry records regarding individuals who provide direct transportation services or otherwise have direct contact with children or vulnerable adults may be disclosed.

(f) A person may, at any time, apply to the Human Services Board for relief if the person has reasonable cause to believe that the contents of the Registry or investigative records are being misused.

(g) A person may at any time apply to the Department for expungement of the person's name from the Registry. The person shall have the burden of showing why the person's name should be expunged from the Registry. The Department shall consider the person's completion of reparation and rehabilitation in determining whether the person's name should be expunged from the Registry. (Added 1979, No. 150 (Adj. Sess.); amended 1985, No. 78, § 11; 1989, No. 76, § 3; 1993, No. 100, § 6; 1995, No. 51, § 1; 1995, No. 138 (Adj. Sess.), § 14, eff. May 1, 1996; 1995, No. 171 (Adj. Sess.), § 10, eff. May 15, 1996; 2001, No. 135 (Adj. Sess.), § 7, eff. June 13, 2002; 2003, No. 66, § 136c; 2005, No. 174 (Adj. Sess.), § 132; 2007, No. 77, § 2, eff. June 7, 2007; 2011, No. 61, § 8, June 2, 2011; 2011, No. 141 (Adj. Sess.), § 3; 2013, No. 56, §§ 7a, 7b; 2015, No. 38, § 43, eff. May 28, 2015; 2015, No. 60, § 13; 2015, No. 91 (Adj. Sess.), § 1, eff. May 10, 2016; 2017, No. 162 (Adj. Sess.), § 4; 2021, No. 20, § 345; 2023, No. 65, § 19, eff. June 14, 2023; 2023, No. 81, § 1, eff. July 1, 2023.)

**§ 6912. Public education and disclosure of rights and duties; posting of notice**

(a) The Department, within available appropriations, shall conduct a publicity and education program to encourage the fullest degree of reporting of suspected abuse, neglect, or exploitation of vulnerable adults.

(b) All agencies, facilities, or institutions providing care and services to adults who are elders, have a disability, or are vulnerable shall inform their employees of their right and duty to report suspected incidents of abuse, neglect, or exploitation and the protections afforded them by this chapter, and shall establish appropriate policies and procedures to facilitate such reporting.

(c)(1) All agencies, facilities, or institutions providing care and services to vulnerable adults shall post in a prominent and accessible location a poster describing the protections afforded to vulnerable adults by this chapter and by 13 V.S.A. chapter 28. The poster shall include, at a minimum, the following:

(A) a statement that abuse, neglect, and exploitation of vulnerable adults is unlawful;

- (B) a statement that it is unlawful to retaliate against a person for filing a complaint of abuse, neglect, or exploitation or for cooperating in an investigation of abuse, neglect, or exploitation;
  - (C) a description and examples of abuse, neglect, and exploitation;
  - (D) a statement of the range of consequences for persons who commit abuse, neglect, or exploitation;
  - (E) if the agency, facility, or institution has more than five employees, a description of the process for filing internal complaints about abuse, neglect, and exploitation, and the names, addresses, and telephone numbers of the person or persons to whom complaints should be made; and
  - (F) the complaint process of the appropriate State and federal agencies and directions as to how to contact such agencies.
- (2) Except as provided in subdivision (3) of this subsection, the poster required by this subsection shall be posted in a location where it would ordinarily be viewed by vulnerable adults.
- (3) An agency, facility, or institution that provides home-based services shall:

(A) display the poster required by this subsection in its principal place of business; and

(B) provide a written notice that includes all information contained on the poster to each vulnerable adult for whom services are provided.

(Added 1985, No. 78, § 12; amended 2001, No. 135 (Adj. Sess.), § 17, eff. June 13, 2002; 2005, No. 79, § 7; 2013, No. 96 (Adj. Sess.), § 217; 2021, No. 20, § 346.)

**§ 6913. Penalties; abuse; neglect; exploitation; mandatory reporter's failure to report**

(a) Whenever the Department finds, after notice and hearing, that a person has committed sexual abuse as defined in subdivision 6902(1)(D) of this title, exploitation as defined in subdivision 6902(13) of this title in an amount in excess of \$500.00, abuse that causes grievous injury to or the death of a vulnerable adult, or neglect that causes grievous injury to or the death of a vulnerable adult, the Department may impose an administrative penalty of not more than \$25,000.00 for each violation. The Department shall notify the Office of Professional Regulation, or any other professional licensing board applicable to the violator, of any decision made pursuant to this subsection.



(b) The Department shall investigate allegations that a mandated reporter has failed to make a required report when it appears that an investigation is appropriate. Whenever the Department finds, after notice and hearing, that a mandatory reporter, as defined in subsection 6903(a) of this title, has willfully violated the provisions of subdivision 6903(a)(1), the Department may impose an administrative penalty not to exceed \$1,000.00 per violation. For purposes of this subsection, every 24 hours that a report is not made beyond the period for reporting required by section 6903 shall constitute a new and separate violation, and a mandatory reporter shall be liable for an administrative penalty of not more than \$1,000.00 for each 24-hour period, not to exceed a maximum penalty of \$25,000.00 per reportable incident.

(c) Whenever the Department finds that a mandatory reporter willfully or knowingly withheld information, or provided false or inaccurate information, the Department may impose an administrative penalty not to exceed \$1,000.00 per violation.

(d) A person who is aggrieved by a decision under subsection (a), (b), or (c) of this section may

appeal that decision to the Superior Court, where either party may request trial by jury. (Added 1985, No. 78, § 13; amended 1993, No. 100, § 8; 2001, No. 135 (Adj. Sess.), § 8, eff. June 13, 2002; 2005, No. 79, § 4; 2023, No. 81, § 1, eff. July 1, 2023.)

**§ 6914. Access to criminal records**

(a) The Commissioner may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent that the Commissioner has determined that such information is necessary to protect vulnerable adults.

(b) The Commissioners of Disabilities, Aging, and Independent Living, of Health, and of Mental Health or their designees may, for the protection of vulnerable adults or for purposes related to oversight and monitoring of persons who are served by or compensated with funds provided by the Departments of Disabilities, Aging, and Independent Living, of Health, and of Mental Health, ask the Vermont Crime Information Center for the record of convictions of a person who is a current employee, volunteer, or contractor, or a person to whom the employer has given a conditional offer of a contract,

volunteer position, or employment. If the individual has a record of convictions, the Vermont Crime Information Center shall inform the appropriate department of the date and type of conviction.

(c) Information released to an employer under this section shall not be released or disclosed by the employer to any person. Any person who violates this subsection shall be fined not more than \$500.00. (Added 1993, No. 100, § 9; amended 1995, No. 51, § 2; 1995, No. 174 (Adj. Sess.), § 3; 2001, No. 135 (Adj. Sess.), § 9, eff. June 13, 2002; 2005, No. 174 (Adj. Sess.), § 133; 2013, No. 131 (Adj. Sess.), § 87, eff. May 20, 2014; 2023, No. 81, § 1, eff. July 1, 2023.)

### **§ 6915. Access to financial information**

(a) As used in this chapter:

(1) “A person having custody or control of the financial information” means:

(A) a bank as defined in 8 V.S.A. § 11101;

(B) a credit union as defined in 8 V.S.A. § 30101;

(C) a broker-dealer or investment advisor, as those terms are defined in 9 V.S.A. § 5102; or

(D) a mutual fund as defined in 8 V.S.A. § 3461.

(2) “Capacity” means an individual’s ability to make and communicate a decision regarding the issue that needs to be decided.

(3) “Financial information” means an original or copy of, or information derived from:

(A) a document that grants signature authority over an account held at a financial institution;

(B) a statement, ledger card, or other record of an account held at a financial institution that shows transactions in or with respect to that account;

(C) a check, clear draft, or money order that is drawn on a financial institution or issued and payable by or through a financial institution;

(D) any item, other than an institutional or periodic charge, that is made under an agreement between a financial institution and another person’s account held at a financial institution;

(E) any information that relates to a loan account or an application for a loan;

(F) information pertaining to an insurance or endowment policy, annuity contract, contributory or noncontributory pension fund, mutual fund, or security, as defined in 9 V.S.A. § 5102; or

(G) evidence of a transaction conducted directly or by electronic or telephonic means, including surveillance video, access logs, IP addresses, and any other digital logs, documents, and metadata.

(4) “Financial institution” means any financial services provider licensed, registered, or otherwise authorized to do business in Vermont, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(b)(1) A person having custody or control of the financial information of a vulnerable adult shall make the information or a copy of the information available to an Adult Protective Services investigator upon receipt of the investigator’s written request or, in the instances described in subsections (d) and (e) of this section, upon receipt of a court order.

(2) The request shall include a statement signed by the account holder, if the account holder has capacity, or the account holder’s guardian with financial powers or agent under a power of attorney consenting to the release of the information to the investigator.

(c) If the vulnerable adult lacks capacity and does not have a guardian or agent, or if the vulnerable adult lacks capacity and the vulnerable adult's guardian or agent is the alleged perpetrator, the request shall include a statement signed by the investigator asserting that all of the following conditions exist:

- (1) The account holder is an alleged victim of abuse, neglect, or financial exploitation.
- (2) The alleged victim lacks the capacity to consent to the release of the financial information.
- (3) Law enforcement is not involved in the investigation or has not requested a subpoena for the information.
- (4) The alleged victim will suffer imminent harm if the investigation is delayed while the investigator obtains a court order authorizing the release of the information.
- (5) Immediate enforcement activity that depends on the information would be materially and adversely affected by waiting until the alleged victim regains capacity.

(6) The Commissioner has personally reviewed the request and confirmed that the conditions set forth in this subsection have been met and that disclosure of the information is necessary to protect the alleged victim from abuse, neglect, or financial exploitation.

(d) If a guardian refuses to consent to the release of the alleged victim's financial information, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant to 14 V.S.A. § 3062(c).

(e) If an agent under a power of attorney refuses to consent to the release of the alleged victim's financial information, the investigator may file a petition in Superior Court pursuant to 14 V.S.A. § 3510(b) to compel the agent to consent to the release of the alleged victim's financial information.

(f) The investigator shall include a copy of the written request in the alleged victim's case file.

(g) The person having custody or control of the financial information shall not require the investigator to provide details of the investigation to support the request for production of the information.

(h) The information requested and released shall be used only to investigate the allegation of abuse, neglect, or financial exploitation or for the purposes set forth in subdivision 6911(b)(3) of this title and shall not be used against the alleged victim.

(i) The person having custody or control of the financial information shall provide the information to the investigator as soon as possible but, absent extraordinary circumstances, not later than 10 business days following receipt of the investigator's written request or receipt of a court order or subpoena requiring disclosure of the information.

(j) A person who in good faith makes an alleged victim's financial information or a copy of the information available to an investigator in accordance with this section shall be immune from civil or criminal liability for disclosure of the information unless the person's actions constitute gross negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult. (Added 2015, No. 91 (Adj. Sess.), § 2, eff. May 10, 2016; amended 2023, No. 81, § 1, eff. July 1, 2023.)



## § 6916. Annual report

On or before January 15 of each year, and notwithstanding the provisions of 2 V.S.A. § 20(d), the Department shall report to the House Committee on Human Services and the Senate Committee on Health and Welfare regarding the Department's adult protective services activities during the previous fiscal year, including:

- (1) the number of reports of abuse, neglect, or exploitation of a vulnerable adult that the Department's Adult Protective Services program received during the previous fiscal year and comparisons with the two prior fiscal years;
- (2) the Adult Protective Services program's timeliness in responding to reports of abuse, neglect, or exploitation of a vulnerable adult during the previous fiscal year, including the median number of days it took the program to make a screening decision;
- (3) the number of reports received during the previous fiscal year that required a field screen to determine vulnerability and the percentage of field screens that were completed within 10 calendar days;

- (4) the number of reports of abuse, neglect, or exploitation of a vulnerable adult that were received from a facility licensed by the Department's Division of Licensing and Protection during the previous fiscal year;
- (5) the numbers and percentages of reports received during the previous fiscal year by each reporting method, including by telephone, e-mail, Internet, facsimile, and other means;
- (6) the number of investigations opened during the previous fiscal year and comparisons with the two prior fiscal years;
- (7) the number and percentage of investigations during the previous fiscal year in which the alleged victim was a resident of a facility licensed by the Department's Division of Licensing and Protection;
- (8) data regarding the types of maltreatment experienced by alleged victims during the previous fiscal year, including:
  - (A) the percentage of investigations that involved multiple types of allegations of abuse, neglect, or exploitation, or a combination;
  - (B) the numbers and percentages of

unsubstantiated investigations by type of maltreatment; and

(C) the numbers and percentages of recommended substantiations by type of maltreatment;

(9) the Department's timeliness in completing investigations during the previous fiscal year, including both unsubstantiated and recommended substantiated investigations;

(10) data on Adult Protective Services program investigator caseloads, including:

(A) average daily caseloads during the previous fiscal year and comparisons with the two prior fiscal years;

(B) average daily open investigations statewide during the previous fiscal year and comparisons with the two prior fiscal years;

(C) average numbers of completed investigations per investigator during the previous fiscal year; and

(D) average numbers of completed investigations per week during the previous fiscal year;

(11) the number of reviews of screening decisions

not to investigate, including the number and percentage of these decisions that were upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(12) the number of reviews of investigations that resulted in an unsubstantiation, including the number and percentage of these unsubstantiations that were upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(13) the number of appeals of recommendations of substantiation that concluded with the Commissioner, including the number and percentage of these recommendations that the Commissioner upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(14) the number of appeals of recommendations of substantiation that concluded with the Human Services Board, including the numbers and percentages of these recommendations that the Board upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(15) the number of appeals of recommendations of substantiation that concluded with the

Vermont Supreme Court, including the numbers and percentages of these recommendations that the Court upheld during the previous fiscal year and comparisons with the two prior fiscal years;

(16) the number of expungement requests received during the previous fiscal year, including the number of requests that resulted in removal of an individual from the Adult Abuse Registry;

(17) the number of individuals placed on the Adult Abuse Registry during the previous fiscal year and comparisons with the two prior fiscal years; and

(18) the number of individuals removed from the Adult Abuse Registry during the previous fiscal year. (Added 2019, No. 156 (Adj. Sess.), § 2, eff. Oct. 5, 2020.)

### **§ 6917. Written communications**

Any written communications from the Department, an administrative reviewer, or the Human Services Board to the alleged victim or to the alleged perpetrator shall use plain language. (Added 2023, No. 81, § 1, eff. July 1, 2023.)

**§ 6918. Rulemaking**

The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement this subchapter, including:

(1) conducting referrals on intakes, including:

(A) required referrals; and

(B) referrals on intake reports not accepted for assessment or investigation;

(2) conducting assessments, including:

(A) the components of an assessment;

(B) the determinations of an assessment; and

(C) timelines required for the assessment; and

(3) conducting investigations, including:

(A) the components of an investigation;

(B) the determinations of an investigation; and

(C) timelines required for the investigation.

(Added 2023, No. 81, § 1, eff. July 1, 2023.)

## **Subchapter 2: Maltreatment Prevention for Vulnerable Adults**

### **§ 6931. Definitions**

In addition to the definitions in section 6902 of this title, as used in this subchapter, “interested person” means a representative of the vulnerable adult; the Commissioner of Disabilities, Aging, and Independent Living; or the Commissioner’s designee. (Added 1991, No. 180 (Adj. Sess.), § 2; amended 2001, No. 135 (Adj. Sess.), § 10, eff. June 13, 2002; 2005, No. 174 (Adj. Sess.), § 134; 2021, No. 20, § 347.)

### **§ 6932. Jurisdiction and venue**

- (a) The Family Division of the Superior Court shall have jurisdiction over proceedings under this subchapter.
- (b) Emergency orders under section 6936 of this title may be issued by a judge of the Criminal, Civil, or Family Division of the Superior Court.
- (c) Proceedings under this subchapter may be commenced in the county in which the vulnerable adult resides. If the vulnerable adult has left the residence to avoid abuse, neglect, or exploitation, the vulnerable adult shall have the option to bring

an action in the county of the previous residence or the county of the new residence. (Added 1991, No. 180 (Adj. Sess.), § 2; amended 2001, No. 135 (Adj. Sess.), § 17, eff. June 13, 2002; 2009, No. 154 (Adj. Sess.), § 233; 2023, No. 81, § 2, eff. July 1, 2023.)

### **§ 6933. Request for relief**

(a) A vulnerable adult, Adult Protective Services staff, or an interested person on behalf of a vulnerable adult may seek relief from abuse, neglect, or exploitation by filing a petition requesting one or more of the following orders:

- (1) an order that the defendant refrain from abusing, neglecting, or exploiting the vulnerable adult;
- (2) an order that the defendant immediately vacate the household;
- (3) an order that the defendant shall not contact or communicate with the vulnerable adult either directly or through a third party;
- (4) an order that the defendant shall not come within a fixed distance from the vulnerable adult;
- (5) an order that the defendant shall not stalk, as defined in 12 V.S.A. § 5131, the vulnerable adult;



- (6) an order to deliver care plans, medicines, physicians' orders, and medical records to the vulnerable adult or the vulnerable adult's representative;
- (7) an order to cooperate in the transfer of the vulnerable adult's care to ensure the vulnerable adult's safety and well-being;
- (8) an order to immediately return any cash, checks, money, or property belonging to the vulnerable adult in the defendant's possession;
- (9) an order to immediately return any personal documentation regarding the vulnerable adult, including identification documents, insurance information, financial records, and immigration documentation;
- (10) an order that the defendant shall not access, dispose of, take, or transfer funds, accounts, or property from the vulnerable adult or any account in the name of the vulnerable adult;
- (11) an order to cease any access, sharing, or use of identifying information, image, or likeness of the vulnerable adult;
- (12) an order regarding possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by the vulnerable adult; and

(13) such other orders as deemed necessary to protect the vulnerable adult.

(b) No filing fee shall be required. (Added 1991, No. 180 (Adj. Sess.), § 2; amended 2001, No. 135 (Adj. Sess.), § 11, eff. June 13, 2002; 2023, No. 81, § 2, eff. July 1, 2023.)

### **§ 6934. Notice**

Except as provided in section 6936 of this title, the court shall grant relief only after notice to the defendant and a hearing. If the petition is made by an interested person, notice shall be provided to the vulnerable adult and the court shall determine whether the vulnerable adult is capable of expressing the vulnerable adult's wishes with respect to the petition and if so, whether the vulnerable adult wishes to pursue the petition. If the court determines that the vulnerable adult is capable of expressing the vulnerable adult's opinion and does not wish to pursue the petition, the court shall dismiss the petition. (Added 1991, No. 180 (Adj. Sess.), § 2; amended 2001, No. 135 (Adj. Sess.), § 17, eff. June 13, 2002; 2023, No. 81, § 2, eff. July 1, 2023.)

### § 6935. Findings and order

(a) If the court finds that the defendant has abused, neglected, or exploited the vulnerable adult, the court shall make such order as it deems necessary to protect the vulnerable adult. The plaintiff shall have the burden of proving abuse, neglect, or exploitation by a preponderance of the evidence. Relief shall be granted for a fixed period of time, at the expiration of which the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the vulnerable adult from abuse, neglect, or exploitation. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstances. If the motion for extension or modification of the order is made by an interested person, notice shall be provided to the vulnerable adult, and the court shall determine whether the vulnerable adult is capable of expressing his or her wishes with respect to the motion and, if so, whether the vulnerable adult wishes to request an extension or modification. If the court determines the vulnerable adult is capable of expressing his or her wishes and does not wish to pursue the motion, the court shall dismiss the motion.

(b) Every order under this subchapter shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order, and shall be signed by the judge.

(c) Form complaints and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(d) Every order issued under this subchapter shall bear the following language: “VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.” (Added 1991, No. 180 (Adj. Sess.), § 2; amended 2001, No. 135 (Adj. Sess.), § 12, eff. June 13, 2002.)

### **§ 6936. Emergency relief; hearings**

(a) In accordance with the Rules for Family Proceedings, temporary orders under this subchapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused, neglected, or exploited the vulnerable adult and

that serious and irreparable harm to the physical health or financial interests of the vulnerable adult will result without ex parte relief.

(b) If the petition is made by an interested person, notice shall be provided to the vulnerable adult and the court shall determine whether the vulnerable adult is capable of expressing his or her wishes with respect to the petition and if so, whether the vulnerable adult wishes to pursue the petition. If the court determines that the vulnerable adult is capable of expressing his or her opinion and does not wish to pursue the petition, the court shall dismiss the petition.

(c) In addition to the information required under subsection 6935(b) of this title, every order issued under this section shall state upon its face a date, time, and place when the defendant may appear to petition the court for modification or discharge of the order. When service of the temporary order cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of any temporary order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant. The defendant's opportunity to contest shall be scheduled as soon as reasonably

possible, but in no event later than 10 days from the date of issuance of the order.

(d)(1) The Court Administrator shall establish procedures to ensure access to relief after regular court hours or on weekends and holidays.

(2) The procedures established pursuant to this subsection shall include:

(A) designation of an employee of the Judiciary authorized to receive requests for ex parte petitions submitted after regular court hours; and

(B) permission for the petitioner's affidavit to be sworn to or affirmed by administration of the oath over the telephone to the petitioner by the authorized person, during or after regular court hours. (Added 1991, No. 180 (Adj. Sess.), § 2; amended 2001, No. 135 (Adj. Sess.), § 13, eff. June 13, 2002; 2021, No. 147 (Adj. Sess.), § 4a, eff. May 31, 2022.)

### **§ 6937. Service**

(a) A petition or ex parte temporary order or final order issued under this subchapter shall be served by any sheriff or constable or any municipal or State Police officer in accordance with the Vermont Rules of Civil Procedure. A court that

issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A defendant who attends a hearing held under section 6935 of this title at which a temporary or final order under this chapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A defendant notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the defendant of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the defendant. (Added 1991, No. 180 (Adj. Sess.), § 2; amended 2013, No. 17, § 5; 2013, No. 17, § 6, eff. Nov. 1, 2013.)

### **§ 6938. Procedure**

(a) Except as otherwise provided in this subchapter, proceedings commenced under this

subchapter shall be in accordance with the Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b) If the petition is filed by an interested person, the court may in its discretion appoint a guardian ad litem for the vulnerable adult.

(c) The Court Administrator shall establish procedures to ensure access to relief after regular court hours, or on weekends and holidays. The Court Administrator is authorized to contract with public or private agencies to assist persons to seek relief and to gain access to Superior Court judges. Law enforcement agencies shall assist in carrying out the intent of this section. (Added 1991, No. 180 (Adj. Sess.), § 2; amended 2001, No. 135 (Adj. Sess.), § 17, eff. June 13, 2002; 2009, No. 154 (Adj. Sess.), § 234.)

**§ 6939. Filing orders with law enforcement personnel; Department of Public Safety Protection Order Database**

(a) Police departments, sheriff's departments, and State Police district offices shall establish procedures for filing orders issued under this subchapter and for making personnel aware of the existence and contents of such orders.



(b) Any court in this State that issues an order under this subchapter shall transmit a copy of the order to the Department of Public Safety Protective Order Database. (Added 1991, No. 180 (Adj. Sess.), § 2; amended 2005, No. 193 (Adj. Sess.), § 8, eff. Oct. 1, 2006.)

### **§ 6940. Enforcement**

(a) Law enforcement officers are authorized to enforce orders issued under this subchapter.

(b) Violation of an order issued under this subchapter may be prosecuted as criminal contempt under Rule 42 of the Vermont Rules of Criminal Procedure. The prosecution for criminal contempt may be initiated by the State's Attorney in the Family Division of the Superior Court in the county that issued the order. The maximum penalty that may be imposed under this subsection shall be a fine of \$1,000.00 or imprisonment for six months, or both. A sentence of imprisonment upon conviction for criminal contempt may be stayed in the discretion of the court pending the expiration of the time allowed for filing notice of appeal or pending appeal if any appeal is taken. (Added 1991, No. 180 (Adj. Sess.), § 2; amended 2009, No. 154 (Adj. Sess.), § 238.)

## § 6941. Appeals

An order of the court issued under section 6935 of this title shall be treated as a final order for the purposes of appeal. Appeal may be taken by either party to the Supreme Court under the Vermont Rules of Appellate Procedure and the appeal shall be determined forthwith. (Added 1991, No. 180 (Adj. Sess.), § 2.)

## **Subchapter 3: Protecting Against Financial Exploitation**

### § 6951. Definitions

As used in this subchapter:

- (1) “Agent” shall have the same meaning as in 14 V.S.A. § 3501.
- (2) “Guardian” means a person appointed to serve as the guardian for a vulnerable adult pursuant to the process established in 14 V.S.A. chapter 111 or in 18 V.S.A. chapter 215.
- (3) “Financial exploitation” means:
  - (A) 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;

(B) 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; or

(C) the act of forcing or compelling a vulnerable adult against his or her will to perform services for the profit or financial advantage of another.

(4) “Vulnerable adult” has the same meaning as in section 6902 of this chapter. (Added 2017, No. 23, § 4, eff. May 4, 2017; amended 2021, No. 20, § 348.)

**§ 6952. Civil action for relief from financial exploitation**

(a) Right of action. A vulnerable adult or his or her agent or guardian may bring an action in the Civil Division of the Superior Court pursuant to this section for relief against a natural person who, with reckless disregard or with knowledge, has engaged in the financial exploitation of the vulnerable adult. An action under this section shall be dismissed if the court determines the vulnerable adult is capable of expressing his or her wishes and that he or she does not wish to pursue the action.

(b) Remedies.

(1) If the court finds that financial exploitation of a vulnerable adult has occurred, the court shall grant appropriate relief to the vulnerable adult, which may include money damages, injunctive relief, reasonable costs, attorney's fees, and equitable relief.

(2) If the financial exploitation was intentional, the court may grant exemplary damages not to exceed three times the value of economic damages.

(c) Effects on other parties. No relief granted or otherwise obtained pursuant to this section shall affect or limit in any way the right, title, or interest of a good faith purchaser, mortgagee, holder of a security interest, or other party who obtained an interest in property after its transfer from the vulnerable adult to the natural person who engaged in financial exploitation. No relief granted or otherwise obtained pursuant to this section shall affect any mortgage deed to the extent of the value provided by the mortgagee.

(d) Statute of limitations. The limitations period imposed by 12 V.S.A. § 511 shall apply to all actions brought pursuant to this subchapter.

(Added 2017, No. 23, § 4, eff. May 4, 2017; amended 2021, No. 20, § 349.)

**§ 6953. Other relief still available**

Nothing in this subchapter shall be construed to limit the availability of other causes of action or relief at law or equity to which a vulnerable adult may be entitled under other State or federal laws or at common law. (Added 2017, No. 23, § 4, eff. May 4, 2017.)

**Subchapter 4: Vermont Vulnerable Adult Fatality Review Team**

**§ 6961. Vermont Vulnerable Adult Fatality Review Team established**

(a) Creation. There is created a Vermont Vulnerable Adult Fatality Review Team (Team) within the Office of the Attorney General for the following purposes:

- (1) to examine select cases of abuse- and neglect-related fatalities and preventable deaths of vulnerable adults in Vermont;
- (2) to identify system gaps and risk factors associated with those deaths;

(3) to educate the public, service providers, and policymakers about abuse- and neglect-related fatalities and preventable deaths of vulnerable adults and strategies for intervention; and

(4) to recommend legislation, rules, policies, procedures, practices, training, and coordination of services to promote interagency collaboration and prevent future abuse- and neglect-related fatalities.

(b) Membership.

(1) The Team shall comprise the following members:

(A) the Attorney General or designee;

(B) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(C) the Commissioner of Public Safety or designee;

(D) the Chief Medical Examiner or designee;

(E) the Assistant Director for Adult Protective Services in the Department of Disabilities, Aging, and Independent Living or designee;

- (F) the Adult Services Division Director in the Department of Disabilities, Aging, and Independent Living or designee;
- (G) the Director of the Vermont Office of Emergency Medical Services and Injury Prevention or designee;
- (H) the State Long-Term Care Ombudsman;
- (I) a representative of victim services, appointed by the Executive Director of the Vermont Center for Crime Victim Services;
- (J) the Director of the Center on Aging at the University of Vermont, or a gerontologist or geriatrician appointed by the Director;
- (K) the Director of Disability Rights Vermont or designee;
- (L) a hospital representative, appointed by the Vermont Association of Hospitals and Health Systems;
- (M) a long-term care facility representative, appointed by the Vermont Health Care Association; and
- (N) a home health agency representative, appointed jointly by the Vermont Association of

Home Health Agencies and designated home health agencies that are not members of the Vermont Association of Home Health Agencies.

(2) The members of the Team specified in subdivision (1) of this subsection shall serve two-year terms. Any vacancy on the Team shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term.

(c) Meetings.

(1) The Attorney General or designee shall call the first meeting of the Team to occur on or before September 30, 2016.

(2) The Team shall select a chair and vice chair from among its members at the first meeting and annually thereafter. The Vice Chair shall also serve as Secretary.

(3) The Team shall meet at such times as may reasonably be necessary to carry out its duties, but at least once in each calendar quarter. (Added 2015, No. 135 (Adj. Sess.), § 1; amended 2021, No. 20, § 350.)



**§ 6962. Powers and duties; reports**

(a) The Team shall develop and implement policies to ensure that it uses uniform procedures to review the deaths of vulnerable adults in Vermont.

(b)(1) The Team may review the death of any person who meets the definition of a vulnerable adult in subdivision 6902(14) of this title and:

(A) who was the subject of an adult protective services investigation; or

(B) whose death came under the jurisdiction of, or was investigated by, the Office of the Chief Medical Examiner.

(2) The Team shall not initiate the review of the death of a vulnerable adult until the conclusion of any active adult protective services or law enforcement investigation, criminal prosecution, or civil action.

(3) The review shall not impose unreasonable burdens on health care providers for production of information, records, or other materials. The Team shall first seek to obtain information, records, and other materials from State agencies or that were generated in the course of an investigation by the Adult Protective Services

Division, the Office of the Chief Medical Examiner, or law enforcement.

(4) The Team shall establish criteria for selecting specific fatalities for review to ensure the analysis of fatalities occurring in both institutional and home- and community-based settings.

(c)(1) Beginning in 2018, the Team shall submit an annual report to the General Assembly on or before January 15.

(2) The annual report shall:

(A) summarize the Team's activities for the preceding year;

(B) identify any changes to the Team's uniform procedures;

(C) identify system gaps and risk factors associated with deaths reviewed by the Team;

(D) recommend changes in statute, rule, policy, procedure, practice, training, or coordination of services that would decrease the number of preventable deaths in Vermont's vulnerable adult population; and

(E) assess the effectiveness of the Team's activities. (Added 2015, No. 135 (Adj. Sess.), § 1.)

### § 6963. Confidentiality

(a) The Team's proceedings and records are confidential and exempt from public inspection and copying under the Public Records Act and shall not be released. Such information shall not be subject to subpoena or discovery or be admissible in any civil or criminal proceedings; provided, however, that nothing in this subsection shall be construed to limit or restrict the right to discover or use in any civil or criminal proceedings anything that is available from another source and entirely independent of the Team's review. The Team shall not use information, records, or data that it obtains or generates for purposes other than those described in this subchapter.

(b) The Team's conclusions and recommendations may be disclosed, but shall not identify or allow for the identification of any person or entity.

(c) Meetings of the Team are confidential and shall be exempt from the Vermont Open Meeting Law. The Secretary of the Team shall maintain any records, including meeting minutes, generated by the Team.

(d) Team members and persons invited to assist the Team shall not reveal information, records, discussions, and opinions disclosed in connection with the Team's work, and shall execute a sworn statement to honor the confidentiality of such information, records, discussions, and opinions. The Chair of the Team shall be responsible for obtaining and maintaining confidentiality agreements. (Added 2015, No. 135 (Adj. Sess.), § 1.)

#### **§ 6964. Access to information and records**

(a) In any case subject to review by the Team, and upon written request by the Chair of the Team, any person who possesses information or records that are necessary and relevant to Team review shall as soon as practicable provide the Team with the information and records.

(b) The Team shall not have access to the proceedings, reports, and records of peer review committees as defined in 26 V.S.A. § 1441.

(c) Persons disclosing or providing information or records upon the Team's request are not criminally or civilly liable for disclosing or providing information or records in compliance with this section. (Added 2015, No. 135 (Adj. Sess.), § 1.)

### 3 Vermont Supreme Court

#### Caselaw Interpretation of APS Statute

The following cases were collated by the Department of Disability, Aging, and Independent Living (DAIL) legal counsel and delivered to APS for consideration in APS screening decisions and recommendations to substantiate or unsubstantiated at the conclusion of an investigation. These findings from the Vermont Supreme Court (VSC) are precedent-setting interpretations of statute, and may be considered as part of any decision or recommended outcome from APS.

#### ***CASES WITH SIGNIFICANT HOLDINGS***

To establish that an alleged victim is a vulnerable adult under 33 V.S.A. § 6902(14)(D)(ii), it is necessary to establish that the alleged victim's disability impaired her ability to protect herself against the alleged perpetrator's actions. *Smith v. Wright*, 2013 VT 68, ¶¶ 18-20, 194 Vt. 326, 79 A.3d 876; *Farr v. Searles*, 2006 VT 110, ¶¶ 4-6, 180 Vt. 642, 910 A.2d 929.

Finding in guardianship proceeding that a person is not an appropriate guardian does not bar that person from challenging abuse/neglect/exploitation allegations in a subsequent substantiation proceeding involving same victim unless the probate court in the

guardianship proceeding makes a specific finding of abuse/neglect/exploitation. *In re Harwood*, 2013 VT 89, 195 Vt. 7, 86 A.3d 976.

Substantiation of abuse of a vulnerable adult cannot be sustained absent evidence that the alleged perpetrator knew, or should have known, of the alleged victim's status as elderly or disabled adult. *In re Appeal of Tinker*, 165 Vt. 621, 686 A.2d 946 (1996).

Legislature did not intend abuse under 33 V.S.A. § 6902(1)(A) to be a strict liability offense. Thus, a finding of abuse under that provision requires a showing of purposeful or reckless action. *In re Appeal of Tinker*, 165 Vt. 621, 686 A.2d 946 (1996).

APS investigator has a “clear and nondiscretionary” statutory duty under 33 V.S.A. § 6906(c) to include in the investigative report “all evidence” uncovered by her investigation, including all of the exculpatory evidence. *Czechorowski v. State*, 2005 VT 40, ¶ 29, 178 Vt. 524, 872 A.2d 883.

In determining whether there is abuse under 33 V.S.A. § 6902(1)(E), the Human Services Board applies an objective standard (whether it is reasonably to be expected that the individual's behavior will result in serious emotional distress in the vulnerable adult) but can consider the

alleged victim's response to the alleged abuse. *In re E.C.*, 2010 VT 50, ¶¶ 8, 12, 188 Vt. 546, 1 A.3d 1007.

A finding of abuse under 33 V.S.A. § 6902(1)(E) requires that the harm that is expected to result, whether it be intimidation, fear, humiliation, degradation, agitation, or disorientation, rise to the level of “serious emotional distress.” *In re E.C.*, 2010 VT 50, ¶ 10, 188 Vt. 546, 1 A.3d 1007.

***OTHER CASES (without significant holdings)***

*In re Waldman*, No. 2014–403, 2015 WL 3756821 (June 2015) (mem.) (three-justice panel)

*In re Waldman*, No. 2010–266, 2011 WL 4977673 (Apr. 21, 2011) (mem.) (three-justice panel)

*In re Hudson*, No. 2007-283, 2008 WL 2781541 (May 2008) (mem.) (three-justice panel)

*In re Richardson*, No. 2007-134, 2008 WL 2781543 (May 2008) (mem.) (three-justice panel)

*Thibeault v. Dep't of Aging & Disabilities*, No. 2004-361, 2005 WL 6152652 (Apr. 2005) (mem.) (three-justice panel)

## **4 Vermont Statute – Title 13: Crimes and Criminal Procedure**

### *Chapter 28: Abuse, Neglect, and Exploitation of Vulnerable Adults*

Title 13 of Vermont Statutes defines the State's criminal laws and procedures for prosecution, conviction and punishment in the justice system. Chapter 28 of Title 13 provides definitions and specifies civil action for crimes against vulnerable adults. Chapter 28 of Title 13 reads as follows:



I) Title 13 – Chapter 28: Abuse, Neglect,  
and Exploitation of Vulnerable Adults

§ 1375. Definitions

As used in this chapter:

(1) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(2) "Caregiver" means:

(A) a person, agency, facility, or other organization with responsibility for providing subsistence, health, or other care to a vulnerable adult, who has assumed the responsibility voluntarily, by contract, or by an order of the court; or

(B) a person providing care, including health care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care which is required because of another's age or disability.

(3) "Lewd and lascivious conduct" means any lewd or lascivious act upon or with the body, or any part or member thereof, of a vulnerable adult, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the person or the vulnerable adult.

(4) "Neglect" means intentional or reckless failure or omission by a caregiver to:

(A)(i) provide care or arrange for goods, services, or living conditions 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 an advanced directive as defined in chapter 111 of Title 18; or

(ii) make a reasonable effort, in accordance with the authority granted the caregiver, to protect a vulnerable adult from abuse, neglect or exploitation by others.

(B) Neglect may be repeated conduct or a single incident which has resulted in or could be expected to result in physical or psychological harm, as a result of subdivisions (A)(i) or (ii) of this subdivision (4).

(5) "Serious bodily injury" shall have the same meaning as in subdivision 1021(2) of this title.

(6) "Sexual act" means conduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another.

(7) "Sexual activity" means a sexual act, other than appropriate health care or personal hygiene, or lewd and lascivious conduct.

(8) "Vulnerable adult" means any person 18 years of age or older who:

(A) is a resident of a facility required to be licensed under chapter 71 of Title 33;

(B) is a resident of a psychiatric hospital or a psychiatric unit of a hospital;

(C) has been receiving personal care and services from an agency certified by the Vermont department of aging and independent living or from a person or organization that offers, provides, or arranges for personal care; or

(D) regardless of residence or whether any type of service is received, is impaired due to brain damage, infirmities of aging, or a physical, mental, or developmental disability that results in some impairment of the individual's ability to:

(i) provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances; or

(ii) protect himself or herself from abuse, neglect, or exploitation. (Added 2005, No. 79, § 2; amended 2005, No. 192 (Adj. Sess.), § 7, eff. May 26, 2006.)

§ 1376. Abuse

(a) A person who engages in conduct with an intent or reckless disregard that the conduct is likely to cause unnecessary harm, unnecessary pain, or unnecessary suffering to a vulnerable adult shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(b) A person who commits an assault, as defined in section 1023 of this title, with actual or constructive knowledge that the victim is a vulnerable adult, shall be imprisoned for not more than two years or fined not more than \$2,000.00, or both.

(c) A person who commits an aggravated assault as defined in subdivision 1024(a)(1) or (2) of this title with actual or constructive knowledge that the victim is a vulnerable adult shall be imprisoned not more than 20 years or fined not more than \$10,000.00, or both. (Added 2005, No. 79, § 2.)

§ 1377. Abuse by unlawful restraint and unlawful confinement

(a) Except as provided in subsection (b) of this section, no person shall knowingly or recklessly:

(1) cause or threaten to cause unnecessary or unlawful confinement or unnecessary or unlawful restraint of a vulnerable adult; or

(2) administer or threaten to administer a drug, a substance, or electroconvulsive therapy to a vulnerable adult.

(b) This section shall not apply if the confinement, restraint, administration, or threat is:

(1) part of a legitimate and lawful medical or therapeutic treatment; or

(2) lawful and reasonably necessary to protect the safety of the vulnerable adult or others, provided that less intrusive alternatives have been attempted if doing so would be reasonable under the circumstances.

(c) A person who violates this section shall:

(1) be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) if the violation causes bodily injury, be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) if the violation causes serious bodily injury, be imprisoned not more than 15 years or fined not more than \$10,000.00, or both. (Added 2005, No. 79, § 2.)

§ 1378. Neglect

(a) A caregiver who intentionally or recklessly neglects a vulnerable adult shall be imprisoned not

more than 18 months or fined not more than \$10,000.00, or both.

(b) A caregiver who violates subsection (a) of this section, and as a result of such neglect, serious bodily injury occurs to the vulnerable adult, shall be imprisoned not more than 15 years or fined not more than \$10,000.00, or both. (Added 2005, No. 79, § 2.)

§ 1379. Sexual abuse

(a) A person who volunteers for or is paid by a caregiving facility or program shall not engage in any sexual activity with a vulnerable adult. It shall be an affirmative defense to a prosecution under this subsection that the sexual activity was consensual between the vulnerable adult and a caregiver who was hired, supervised, and directed by the vulnerable adult. A person who violates this subsection shall be imprisoned for not more than two years or fined not more than \$10,000.00, or both.

(b) No person, whether or not the person has actual knowledge of the victim's vulnerable status, shall engage in sexual activity with a vulnerable adult if:

(1) the vulnerable adult does not consent to the sexual activity; or

(2) the person knows or should know that the vulnerable adult is incapable of resisting, declining,

or consenting to the sexual activity due to his or her specific vulnerability or due to fear of retribution or hardship.

(c) A person who violates subsection (b) of this section shall be:

(1) imprisoned for not more than five years or fined not more than \$10,000.00, or both, if the sexual activity involves lewd and lascivious conduct;

(2) imprisoned for not more than 20 years or fined not more than \$10,000.00, or both, if the sexual activity involves a sexual act.

(d) A caregiver who violates subsection (b) of this section shall be:

(1) imprisoned for not more than seven years or fined not more than \$10,000.00, or both, if the sexual activity involves lewd and lascivious conduct.

(2) imprisoned for not more than 25 years or fined not more than \$10,000.00, or both, if the sexual activity involves a sexual act. (Added 2005, No. 79, § 2.)

#### § 1380. Financial exploitation

(a) No person shall willfully use, withhold, transfer, or dispose of funds or property of a vulnerable adult, without or in excess of legal

authority, for wrongful profit or advantage. No person shall willfully acquire 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.

(b) A person who violates subsection (a) of this section, and exploits money, funds, or property of no more than \$500.00 in value, shall be imprisoned not more than 18 months or fined not more than \$10,000.00, or both.

(c) A person who violates subsection (a) of this section, and exploits money, funds, or property in excess of \$500.00 in value, shall be imprisoned not more than 10 years or fined not more than \$10,000.00, or both. (Added 2005, No. 79, § 2.)

#### § 1381. Exploitation of services

Any person who willfully forces or compels a vulnerable adult against his or her will to perform services for the profit or advantage of another shall be imprisoned not more than two years or fined not more than \$10,000.00, or both. (Added 2005, No. 79, § 2.)

#### § 1382. Deferred sentence

Notwithstanding the limitation of subsection 7041(a) of this title, a court may, on the motion of a party or on its own motion, with or without the consent of the state's attorney, defer sentencing for a misdemeanor violation of this chapter and place



the defendant on probation upon such terms and conditions as it may require. (Added 2005, No. 79, § 2.)

§ 1383. Adult abuse registry

A person who is convicted of a crime under this chapter shall be placed on the adult abuse registry. A deferred sentence is considered a conviction for purposes of the adult abuse registry. (Added 2005, No. 79, § 2.)

§ 1384. Civil action; recovery by attorney general

(a) The Attorney General may bring an action for damages on behalf of the State against a person or caregiver who, with reckless disregard or with knowledge, violates section 1376 (abuse of a vulnerable adult), 1377 (abuse by unlawful restraint or confinement), 1378 (neglect of a vulnerable adult), 1380 (financial exploitation), or 1381 (exploitation of services) of this title, in addition to any other remedies provided by law, not to exceed the following:

- (1) \$5,000.00 if no bodily injury results;
  - (2) \$10,000.00 if bodily injury results;
  - (3) \$20,000.00 if serious bodily injury results;
- and
- (4) \$50,000.00 if death results.

(b) In a civil action brought under this section, the defendant shall have a right to a jury trial.

(c) A good faith report of abuse, neglect, exploitation, or suspicion thereof pursuant to 33 V.S.A. § 6902 or federal law shall not alone be sufficient evidence that a person acted in reckless disregard for purposes of subsection (a) of this section. (Added 2011, No. 141 (Adj. Sess.), § 1.)

§ 1385. Civil investigation

(a)(1) If the Attorney General has reason to believe a person or caregiver has violated section 1376, 1377, 1378, 1380, or 1381 of this title or an administrative rule adopted pursuant to those sections, he or she may:

(A) examine or cause to be examined any books, records, papers, memoranda, and physical objects of whatever nature bearing upon each alleged violation;

(B) demand written responses under oath to questions bearing upon each alleged violation;

(C) require the attendance of such person or of any other person having knowledge on the premises in the county where such person resides or has a place of business or in Washington County if such person is a nonresident or has no place of business within the State;

(D) take testimony and require proof material for his or her information and administer oaths or take acknowledgment in respect of any book, record, paper, or memorandum.

(2) The Attorney General shall serve notice of the time, place, and cause of such examination or attendance or notice of the cause of the demand for written responses at least ten days prior to the date of such examination, personally or by certified mail, upon such person at his or her principal place of business or, if such place is not known, to his or her last known address. Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this State for good cause shown, be disclosed to any person other than the authorized agent or representative of the Attorney General or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same. This subsection shall not apply to any criminal investigation or prosecution.

(b) A person upon whom a notice is served pursuant to this section shall comply with the terms thereof unless otherwise provided by the court order. Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place, conceals, withholds, or

destroys, mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject of any such notice or mistakes or conceals any information shall be subject to a civil fine of not more than \$5,000.00.

(c) If a person fails to comply with a notice served pursuant to subsection (b) of this section or if satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file a petition with the Civil Division of the Superior Court for enforcement of this section. Whenever any petition is filed under this section, the Court shall have jurisdiction to hear and determine the matter presented and to enter such orders as may be required to effectuate the provisions of this section. Failure to comply with an order issued pursuant to this section shall be punished as contempt. (Added 2011, No. 141 (Adj. Sess.), § 2.)

## **5 APS Policy and Procedures Manual**

The APS Policy and Procedures Manual establishes program policies and operating procedures to direct staff in providing services authorized by Title 33, Chapter 69 of the Vermont Statutes annotated. This Manual replaces all prior APS manuals and will be updated as needed or when required by State statute.

All new staff are expected to familiarize themselves with the policy and procedure manual during orientation and all staff are to review at least annually. Staff will be asked to certify they have reviewed the contents upon completion of their review.

## I. Purpose and Mission

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations.*

*Updated September 26, 2013.*

The objective of this section is to familiarize all Adult Protective Services staff with the purpose and mission of the APS program.

APS (Adult Protective Services) is a unit within the Division of Licensing and Protection, Department of Disabilities, Aging and Independent Living, Agency of Human Services. APS is mandated by Vermont state law as set forth under as authorized by Title 33 of the Vermont Statutes Annotated, Chapter 69 to receive reports and investigate allegations of abuse, neglect and exploitation of vulnerable adults, and to carry out other statutory responsibilities.

### **Purpose and Mission**

Adult Protective Services' purpose and mission is to:

1. Protect vulnerable adults whose health and welfare may be adversely affected due to abuse, neglect or exploitation.
2. Ensure the vulnerable adult is provided a temporary or permanent nurturing and safe environment, when necessary.
3. Require the reporting of suspected abuse, neglect and exploitation of vulnerable adults and the investigation of such reports and provision of protective services, when needed.
4. Intervene in the family or substitute care situation only when necessary to ensure proper care and protection of a vulnerable adult; and
5. Carry out other statutory responsibilities.

All employees are expected to meet the expectations outlined in this manual, including professional standards of conduct and/or dress. If an issue related to employee conduct and/or dress arises a supervisor may ask an employee to leave the workplace in an off-payroll status and not return until the issue(s) have been addressed.

## II. Ethical Principles

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations.*

*Updated September 26, 2013.*

This section articulates the principles which inform the work of Adult Protective Services (APS). APS will balance its duty to protect the safety of the vulnerable adult with the individual's right to self-determination by adhering to the principles and practices described in this section. The principles outlined below are derived from the Ethical Principles and Best Practices of the National Association of Adult Protective Services (NAAPSA) program.

### A. APS Principles and practice ensure that:

1. Adults have the right to be safe.
2. Adults retain all their civil and constitutional rights unless some of these rights have been restricted by court action.



3. Adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.
4. Adults are presumed to have decision-making capacity unless a court adjudicates otherwise.
5. Adults have the right to accept or refuse services.
6. Vulnerable adults who are victims of abuse, exploitation or neglect will be treated with honesty, caring and respect.

**B. APS Practice Guidelines ensure that APS staff shall:**

1. Recognize the interests of the adult are the first concern of any intervention.
2. Avoid imposing personal values on others.
3. Seek informed consent from the adult before providing services.
4. Respect the adult's right to keep personal information confidential.
5. Recognize individual differences such as cultural, historical and personal values.
6. Honor the right of adults to receive information about their choices

and options in a form or manner that they can understand.

7. To the extent possible, involve the adult in developing the service plan.
8. Maintain clear and appropriate professional boundaries.
9. Do no harm. Inadequate or inappropriate interventions may be worse than no intervention.

**C. Applying Values, Principles and**

**Practice:** APS staff shall integrate and apply these values, principles and practice guidelines in their work, including, but not limited to:

1. Intake, screening, casework, investigation, fieldwork and related activities
2. Community education, interagency communications and networking
3. Internal and external training
4. Preparation of documents, publications and related communications

### III. Professional Conduct and Appearance

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations.*

*Updated September 26, 2013.*

This section codifies the expectation that all employees of Adult Protective Services will conduct themselves in a professional manner and dress in a manner appropriate to a professional work place.

Adult Protective Services staff are representatives of the State of Vermont and are expected to demonstrate a high degree of personal integrity, professionalism and competence.

#### A. APS Employees will:

1. Demonstrate competence and professionalism in all aspects of their position.

2. Use the authority of their position and the power of the State responsibly and only for its intended purpose.
3. Maintain strict confidentiality.
4. Conduct themselves in a professional manner at all times in office and field based settings.
5. Staff are required to carry their State of Vermont ID badges at all times and to display the badge when working in field-based settings.

**B. Investigator Conduct: APS**

Investigators have significant autonomy and a great deal of discretion in carrying out an investigation, but are expected to follow the legal requirements set forth in law and adhere to the Policies and Procedures set forth in this manual. In the course of an investigation the Investigator must:

1. Maintain objectivity, impartiality and fairness throughout the investigative process;
2. Disclose any actual or potential conflicts of interest and recuse themselves from any involvement in an investigation if such conflict exists; and

3. Make findings and recommendations based on substantiated facts and related analysis, not supposition(s) or assumption(s).

**C. Professional Dress:** APS employees are expected to dress in a manner that is suitable to a professional work place whether performing their duties in an office or field-based setting. Employees will avoid wearing clothing that is very casual, such as:

1. Blue jean pants, sweat suits, athletic clothing, shorts, T-shirts or hoodies
2. Items of clothing that bear prominent logos or sayings. Discreet manufacturers' logos and labels are acceptable. Four-inch lettering that spells out a manufacturer's brand is not.
3. Clothing that reveals undergarments, cleavage, buttocks or belly flesh.
4. Clothing that bears profane or offensive language, messages or images that reasonably might be interpreted as prohibited by State policy, or would cause or contribute to discrimination based upon race, color, religion, ancestry,

national origin, sex, sexual orientation (as provided by 21 V.S.A. Section 495), gender identify, place of birth, age or physical or mental condition.

5. Clothing that is ripped, torn or excessively soiled.

#### IV. Intake, Screening, and Disposition of Reports

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations.*

*Updated September 5, 2023.*

This section describes the process by which APS receives reports and commences field assignment of abuse, neglect and exploitation of vulnerable adults.

A consistent, standardized process is critical for an accurate, timely and responsive system for receiving reports. All reports shall be reviewed by intake staff to determine whether the allegations meet the statutory definitions of abuse, neglect or exploitation and whether the individual is eligible for Adult Protective Services (APS).

- A)** The APS Program Specialists and APS Assistant Director referred to hereafter as intake staff, shall accept reports of abuse, neglect and exploitation by telephone, facsimile transmission or through online, E-mail submission. Intake staff shall make every effort to obtain the necessary

information from the Reporter to ensure an accurate Intake is completed and entered into the APS IMS database.

**B) Process for Receipt and Disposition of Reports**

- 1) Reports to APS may be made orally or in writing.
- 2) APS shall accept anonymous reports.
- 3) A toll-free reporting line shall be maintained and staffed by APS during normal business hours to receive reports.
- 4) Voice mail messages left on the APS voice messaging system shall generally be returned by intake staff within eight (8) business hours.
- 5) Intake staff shall make every effort to ensure that all information obtained is complete and accurate.
- 6) In those instances in which the Reporter describes a situation in which the health and safety of the Alleged Victim is in immediate jeopardy and/or they are at immediate risk of serious harm, the intake staff shall instruct the caller to call 9-1-1. All intakes shall be completed and a determination made:



- a) Within two (2) business days of receipt of the report, if no additional information is needed to complete the Intake.
- b) Within four (4) business days, if the initial report provides insufficient information to complete the Intake.
- c) If the report provides insufficient information for a complete Intake, intake staff shall make two (documented) attempts to contact the Reporter by phone or email, within two (2) business days of receipt of the report.

**C) Investigation Determination and Closed Contacts**

- 1) Intake staff shall determine if a report requires an APS field assignment based on the information gathered during the Intake process.
  - a) Intake staff shall open an APS field assignment when the Alleged Victim in the report is a vulnerable adult and there is an allegation of possible abuse, neglect, or exploitation.

- (i) The Alleged Victim is determined to be a vulnerable adult if she/he meets the statutory definition of a vulnerable adult set forth in 33 V.S.A. §6902(14).
    - (ii) The allegations are determined to be abuse, neglect, or exploitation when they meet the statutory definition set forth in 33 V.S.A. §6902(1), (6) and (7).
  - b) When a report is not opened for an APS field assignment, intake staff shall document it as a closed contact in the APS IMS data base
- 2) When intake staff receives an Intake report that identifies a vulnerable adult as an Alleged Victim of possible abuse, neglect or exploitation, but the report lacks sufficient information to identify the Alleged Perpetrator, intake staff will open it for a field assignment.
  - 3) When APS receives a report with insufficient information to proceed with a screening and disposition (e.g., no identified Alleged Victim and/or insufficient contact information for the Alleged Victim):
    - a) Intake staff shall make a diligent effort to contact the Reporter and document that effort in the APS

IMS data base. At a minimum, intake staff shall make two (2) attempts to contact the Reporter for additional information, if necessary, within two (2) business days.

- b) If the Reporter identifies another individual who may have information pertaining to the report, intake staff shall make a diligent effort to contact that individual to obtain contact information for the Alleged Victim, and shall document that effort in the APS IMS data base.
- c) If, after a diligent effort, intake staff is unable to obtain sufficient information to complete the Intake report to determine whether a vulnerable adult was possibly abused, neglected, or exploited, they shall document the Intake as a closed contact in the APS IMS data base.
- d) After intake staff documents the Intake as a closed contact, if the Reporter's address is available, intake staff shall send a determination letter to the Reporter stating that the Intake Report was screened out because it

provided insufficient information to proceed with field assignment. The letter shall also state that should additional information be provided, sufficient to make the necessary determinations as to whether the vulnerable adult and the allegation(s) meet the relevant statutory definitions, the decision whether to assign field staff may be revisited.

- D)** APS Intake staff will use the following criteria when determining if a report is being screened in for assessment or investigation.
- 1) The relationship between the AV and AP.
  - A) If the AP is a natural support to the AV i.e. relative, neighbor, friend the report will be assigned for assessment unless the alleged maltreatment resulted in death or serious bodily injury of the AV.
  - B) The relationship between the AV and AP is a professional relationship i.e. AP is nursing home or home health staff the report will be screened in for investigation.
  - 2) The wishes of the AV if known at the time of intake.
  - 3) The known history of the AV and AP
  - 4) Future risk of harm to the AV.

**E) Initial Risk Assessment and Direct Contact Timelines**

- 1) Before field assignment, intake staff shall review the Intake Report to assess the Alleged Victim's current level of risk. This assessment is not indicative of the severity of the reported allegations, but an assessment of the potential for additional abuse, neglect or exploitation and the need for protective services to prevent additional harm. A value of 1-3 shall be assigned to each opened case as summarized below:
  - a) Level 1: Assigned to all cases in which an Alleged Victim has suffered life-threatening or severe injuries; required hospitalization as a result of maltreatment; or was the Alleged Victim of sexual abuse or sexual exploitation. The APS field staff shall make direct contact with the Alleged Victim within twenty-four (24) hours of receiving the assignment.
  - b) Level 2: Assigned to all cases in which the Alleged Victim has suffered or is suffering moderate harm as a result of abuse, neglect,

or exploitation. The APS Field staff shall make direct contact with the Alleged Victim within two (2) business days of receiving the assignment.

- c) Level 3: Assigned to all cases in which the Alleged Victim has experienced minimal harm and the Alleged Perpetrator has no continued access to the Alleged Victim. The APS field staff shall make direct contact with the Alleged Victim within ten (10) business days of receiving the assignment

## **F) Supervisory Review**

- 1) The Assistant Director for APS shall review and provide timely feedback on a representative sample of all intakes:
  - a) For accuracy and completeness.
  - b) To ensure compliance with Title 33, the APS Policy Manual, and APS Protocols.
  - c) To provide guidance to intake staff, as needed:
    - (i) For training purposes.
    - (ii) To reverse the screening decision.

- (iii) To ensure timely and adequate communication between intake staffs and S&C's Screeners.
- 2) The APS Field Supervisors shall review all intakes assigned to their team. .
  - a) The APS Field Supervisor shall raise any concerns with assignment to the Assistant Director for APS.

## **G) Referrals**

- 1) For closed contacts, intake staff is responsible for making appropriate referrals and documenting these within the APS data base.
- 2) For field assignments, the APS field staff are responsible for making appropriate referrals and documenting these within the APS IMS data base except where noted below.
- 3) Law Enforcement and/or Special Victims' Units:
  - a) A referral shall be made at the time of Intake for reports of:
    - (i) Violent crimes perpetrated against an Alleged Victim.
    - (ii) Risk of serious and irreparable harm to an Alleged Victim.

- b) APS shall to the extent possible coordinate investigations with law enforcement personnel but shall commence, conduct and conclude its own investigation within the required investigative timeline, provided such action(s) do not jeopardize the Alleged Victim's safety and/or the law enforcement agency's investigation.
- 4) Survey and Certification:
- a) Intake staff shall refer to the Division of Licensing and Protection (DLP) Survey and Certification (S&C) unit some reports in which the alleged victim is receiving services from a facility or organization that is licensed or surveyed by S&C.
  - b) If the report includes the following allegations, it will be reported to S&C the same day the report is received, regardless of who made the report:
    - (i) Reports of fires with injury or death resulting;
    - (ii) Allegations of serious bodily injury or death resulting to the patient/client;



- (iii) Reports of poor or inadequate treatment in an emergency room;
  - (iv) Any other report that in intake staff's judgment placed the patient/client at extreme risk for bodily injury or death;
  - (v) Anonymous reports with no phone number given; and
  - (vi) Reports of an untimely death.
- c) For any other allegation type, and with the exception below at (i), the report will be referred to S&C by the end of the next business day.
- (i) If the reporter is an employee of a facility or organization, and they are making a self-report, intake staff will not refer the intake to S&C. The reporter will file their report with S&C directly if one is required by the federal and/or state regulations governing their facility or organization type.
- d) When a referral is made to S&C, intake staff will include:
- (i) APS's screening decision (if one has been made);

- (ii) The name of the assigned investigator, if screened in for investigation;
  - (iii) All relevant investigation or intake numbers.
- e) The following facilities and organizations are licensed or surveyed by S&C:
- (i) Assisted Living Residence
  - (ii) Ambulatory Surgical Care
  - (iii) End Stage Renal Dialysis Provider
  - (iv) Federally Qualified Health Center
  - (v) Intermediate Care Facility (ICF-ID)
  - (vi) Home Health Agency
  - (vii) Hospice Provider
  - (viii) Hospital
  - (ix) Home for the Terminally Ill
  - (x) Medical Laboratory
  - (xi) Nursing home
  - (xii) Physician's Office
  - (xiii) Portable X-Ray provider
  - (xiv) Residential Care Home
  - (xv) Rural Health Clinic
  - (xvi) Therapeutic Community Residence (TCR)
- 5) Return Referrals from S&C:

- a) After a referral is made to S&C, S&C shall provide APS with any evidence of abuse, neglect, or exploitation discovered during its investigation related to the APS intake.
- b) Any evidence collected by S&C will be provided to the intake staff.
  - (i) If the intake had previously been screened out by intake staff, intake staff will consider the new evidence to determine if it would change the screening decision. If the screening decision is changed, and the Reporter, Alleged Victim, and/or the Alleged Victim's representative were previously notified that an investigation would not be conducted, intake staff shall send a letter to the Reporter, the Alleged Victim, and/or the Alleged Victim's representative indicating that APS has initiated an investigation as a result of new evidence.
  - (ii) If the intake had previously been screened in for investigation, intake staff will

- forward the evidence to the appropriate APS Investigator.
- (iii) APS shall track the number of cases originally screened out for investigation by APS and then subsequently assigned for investigation based on additional information received from S&C. This data will be used to inform quality improvement activities.
- 6) Required referrals:
- a) Office of Professional Regulation (OPR): When the Alleged Perpetrator (AP) is a licensed individual, the OPR (or other appropriate licensing board) shall be informed of the report.
  - b) Medicaid Fraud Unit (MFU), Office of Attorney General: Reports of alleged Medicaid fraud by a provider of service (e.g. licensed facility; developmental home provider; etc.) shall be referred to the MFU's office.
  - c) Office of the Chief Medical Examiner (OCME): If a report alleges that a vulnerable adult's death resulted from abuse or neglect, intake staff shall make an

immediate referral to the OCME regardless of when the death occurred.

- (i) If APS receives a report of an untimely death, it shall refer the report to the OCME. If OCME finds that no abuse or neglect has occurred, APS shall include this information in the Intake screening, and the report shall not be opened for investigation. If the OCME informs APS that an autopsy will be performed or that results are pending autopsy, the Intake shall be assigned for investigation.
- d) Domestic Violence: Reports of domestic violence involving a vulnerable adult may be referred to local law enforcement and/or a domestic violence service provider.
- 7) Other Referrals: Intake staff may determine the need for additional referrals and offer these to the Reporter, the Alleged Victim and/or their representative. Intake staff shall include in the referral to other agencies sufficient information, as requested, to provide appropriate services. Referrals may include but are not limited to:

- a) An area agency on aging
- b) Disability Rights Vermont
- c) Domestic Violence intervention/service program
- d) Mental health and/or developmental disability service provider
- e) VT 2-11
- f) Vermont Legal Aid
- g) Vermont Long Term Care Ombudsman
- h) Vermont Office of Public Guardian
- i) Vermont Center for Independent Living

## **H) Notification of Parties**

- 1) Intake staff shall ensure that the Reporter, Alleged Victim and/or his/her legal representative is informed of the Intake Report disposition at the conclusion of the screening and assessment process, as follows:
  - a) Reports closed as Contacts must include notification in writing to the Reporter, the Alleged Victim and their legal representative, if any, if APS decides not to investigate the report. The

notification shall be provided within five (5) business days after the decision is made. The Reporter must be informed that s/he may ask DAIL's Commissioner to review the Intake/Screening decision.

- b) Intakes resulting in Referrals must include notification in writing to the Reporter, the Alleged Victim and the Alleged Victim's legal representative, if any, if APS refers the report to another service provider or agency. Notification shall be provided within five (5) business days after the referral is made

## **I) Reports of Self-Neglect**

- 1) 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. APS does not have the statutory authority to investigate allegations of self-neglect.
- 2) When APS receives a report of self-neglect, the information shall be

entered into the APS IMS database, screened and a determination made as follows:

- a) If the report is of a self-neglecting adult sixty (60) years of age or older and there is no evidence the individual has been abused, neglected or exploited by another, a referral shall be made to the appropriate Area Agency on Aging. Intake staff shall include in the referral to other agencies sufficient information, as requested, to provide appropriate services.
- b) If the report is of self-neglecting adult under sixty (60) years of age, and there is no evidence the individual has been abused, neglected or exploited by another, intake staff may contact the Field Service Director (FSD) in the region where the person resides to consult on potential resources/options for the individual. Intake staff shall include in the referral to the FSD sufficient information, as requested, to provide appropriate services.
- c) Intake staff shall provide the Reporter with resource and referral options that may be of help to the



individual who is self-neglecting (e.g. an area agency on aging, a regional FSD).

- d) If there is an allegation that the person who is reportedly self-neglecting is an Alleged Victim of abuse, neglect, exploitation by an Alleged Perpetrator, intake staff shall assign the report for Investigation.

## **J) Facility-Based Resident-to-Resident or Patient-to-Patient Reports**

- 1) APS shall assign an investigation for resident-to-resident incidents when:
  - a) The Alleged Victim reports they have been abused, neglected or exploited by another resident; and/or
  - b) The alleged incident requires that either party receive medical treatment; and/or
  - c) Non-consensual sexual activity occurs between two residents; and/or
  - d) There is a pattern of repeated abuse between the Alleged Perpetrator and one or more alleged victims.

- e) There is possible evidence the incident may have occurred as a result of abuse, neglect or exploitation by an employee (includes employees, caregivers, contractors, and volunteers).

**K) Weekend, Holiday and After Hours Reports**

- 1) The Department of Disabilities, Aging and Independent Living has an agreement (Memorandum of Understanding) with the Department for Children and Families (DCF) to handle calls received by Adult Protective Services during evening, week-end and holiday hours. The calls shall be handled by DCF as follows:
  - a) When responding to calls coming in from APS, on either the direct line or the toll-free line, DCF shall utilize the Division of Licensing and Protection (DLP) web-based Abuse Reporting Form.
  - b) DCF shall process all calls received from the APS line and shall record all of the calls as intakes on the DLP Abuse Reporting Form.

- c) All intake forms shall be submitted to DLP/APS upon completion of intake.
- d) In those instances in which the event that the Reporter describes is an emergency, the DCF intake specialist shall instruct the caller to call 9-1-1.
- e) In those instances in which the Reporter describes a situation in which the health and safety of the Alleged Victim is in jeopardy and/or they are at immediate risk of harm, the DCF intake specialist shall instruct the caller to contact the local police or the Vermont State Police, whichever is applicable.

## V. Confidentiality

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations.*

*Updated September 26, 2013.*

The objective of this section is to ensure that all information obtained through reports and investigations is safeguarded, that unauthorized use or disclosure is restricted, and that no information is released except as authorized by law.

APS staff will adhere to certain procedures and practices to ensure confidentiality in regards to any information gathered by, released to or maintained by APS. Staff will follow the procedures and practices outlined below to ensure confidentiality of all APS records and information.

- A. Records:** Records include any files, reports, communications or working papers developed in an investigation or in provision of services as a result of an investigation.

**B. Reporter's Identity:** The name and identifying information of the person who reports suspected abuse or neglect shall not be disclosed and investigative reports shall not contain any identifying information pertaining to the reporter, with some exceptions. Per Vermont Statute (33 V.S.A., 6903), disclosure of the reporter's identity may occur under certain circumstances, if:

1. The person making the report consents to disclosure.
2. A court orders the Agency of Human Services (AHS) to identify the reporter.
3. A judicial proceeding results from the case, and necessitates release of the reporter's name.

**C. Identifying Information:** Identifying information is defined as information that can be used to distinguish a person's identity, directly or indirectly, including first or last name, or nickname; details specific to physical, physiological, mental, economic, cultural or social identity; or any information combined with other personal details that builds a more complete profile of the individual for the purpose of identification.

**D. Release of Information:** APS case files and other information obtained through

reports and investigations are not open to public inspection and shall not be released, with the following exceptions (33 V.S.A., Chapter 6911):

- A) Investigative Reports: Upon receipt of a written request, a copy of the investigative report may be released to the following,
- 1) DAIL's Commissioner or designee.
  - 2) The person accused of having abused, neglected or exploited a vulnerable adult.
  - 3) The vulnerable adult or his/her legal representative.
  - 4) The Office of Professional Regulation.
  - 5) A law enforcement agency, State's Attorney or Attorney General's office.
  - 6) The Vermont Office of Public Guardian.
- B) Other Case Specific Information:  
Information pertinent to an investigation may be disclosed under the following circumstances:
- 1) When AHS needs the information to remediate or prevent abuse, neglect or exploitation.
  - 2) To assist AHS in its oversight and monitoring responsibilities.

- 3) In cases of Relief from Abuse proceedings, Guardianship proceedings or any other court proceeding necessary to protect a vulnerable adult.

## **E. Confidential Personal Health**

**Information (PHI):** Confidentiality of records involving personal health information (PHI) is protected by the privacy provisions of the federal Health Insurance Portability and Accountability Act (HIPAA) at 45 CFR 164.512. These privacy provisions apply to ‘covered entities’.

1. **Definition of PHI:** PHI is defined as any individually identifiable health information, whether oral or recorded in any form or medium, that is created for or received by a covered entity and relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual. Examples of PHI include:
  - a. All oral communications
  - b. Computer screen print-outs
  - c. Fax documents

- d. Hard copy birth or death certificates
  - e. Paper records
  - f. Printed E-mails that identify an individual's health information, claim or billing information
2. Definition of a Covered Entity: A 'covered entity' is defined as, but not limited to, health insurance providers/plans; health care providers such as doctor's offices; home health agencies; hospitals; nursing homes; residential care homes; mental health providers; pharmacies; drug and alcohol treatment providers; medical labs; etc. As such, covered entities may not release PHI without the individual's permission.

APS is not a covered entity.

**F. APS Access to PHI:** APS investigators often need to obtain information from a covered entity related to a client who is a victim of abuse, neglect, or domestic violence. The covered entity may disclose this PHI/HIPAA\_protected information to APS as defined in 45 CFR 164.512 under the following circumstances:

1. By legal requirement: The covered entity must provide, to the extent the



information is available, the following information as required for reporting under Vermont's Adult Abuse Statute (33 V.S.A. 6904):

- a. The name and address of the reporter.
  - b. The name, age and address of the vulnerable adult.
  - c. The name and address of any person responsible for the vulnerable adult's care.
  - d. The nature and extent of the vulnerable adult's disability or impairment.
  - e. Any evidence of previous abuse, neglect or exploitation.
  - f. Any other information to help establish the cause of injuries or reasons for the abuse, neglect or exploitation.
2. By permissive authorization:  
Authorization for the covered entity to release protected health information to APS may also be obtained by asking the vulnerable adult's permission. The covered entity can disclose the information if the individual agrees to the disclosure.
3. By release without the victim's permission: PHI may be released by the covered entity without the victim's

permission, but only to the extent the information is directly relevant to the APS program's interest in the vulnerable adult's health care status. The covered entity may disclose PHI if:

- a. The information needed by APS is protected health information, is required to investigate a report of abuse, neglect, abandonment or exploitation under the APS Statute, and the disclosure is necessary to prevent serious harm to the vulnerable adult or other potential victims; or
- b. The vulnerable adult is unable to agree to release because s/he is mentally incapacitated and the Investigator and the covered entity has determined that disclosure of the information is in the vulnerable adult's best interests, and APS:
  - i) Agrees not to use the information against the vulnerable adult; or
  - ii) Believes that an immediate enforcement activity would be materially and adversely affected by waiting for the vulnerable adult to regain the mental ability to agree to the disclosure; or
  - iii) The vulnerable adult is not present, or is unable to consent due to incapacity, or due to an emergency is unable to be present.

**F. Best Practice and Procedures:** The APS program's best practice requires that the Investigator request the minimum amount of information necessary to carry out an intervention or conduct an investigation. APS staff will confine their inquiry to information directly relevant to the investigation, and:

1. When requesting HIPAA protected information shall:
  - a. Determine if the additional information is necessary or if the report content contains enough information to proceed with the case.
  - b. Determine whether the additional information required is considered personal health information (PHI).
  - c. Determine if the additional information must be provided by the covered entity or can be obtained from another source.
2. If the Investigator determines the information is required, and is covered under HIPAA/PHI, they will:
  - a. Contact the covered entity;

- b. Provide State of Vermont ID as an APS Investigator; explain the APS statutory mandate and authority to investigate allegations of abuse, neglect or exploitation of vulnerable adults; and
- c. Make a written or oral request to the covered entity's representative, requesting the protected health information.

3. If the covered entity refuses to provide the information the Investigator will send a written request via fax using the APS-HIPAA letter format to the covered entity's representative. If the covered entity has further questions the APS staff will contact DAIL's Legal Department for assistance.

## **VI. Conducting an Investigation**

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations.*

*Updated August 14, 2018.*

The objective of this section is to insure investigations To provide expectations for conducting Adult Protective Services investigations (note: this consolidates the previous Sections VI and VII into a single section).

### **I) Assignment to an Investigator**

1. The APS Director shall develop procedures, according to which reports screened in for investigation are assigned to an investigator, who shall then carry out the APS investigation.

### **II) Investigation Requirements**

1. 33 V.S.A. § 6906 (b) describes the required components of an investigation, which are:

- 1) A visit to the alleged victim's place of residence or place of custody.
  - 2) A visit to the location of the reported maltreatment.
  - 3) Interviews with any available witnesses to the maltreatment.
  - 4) Interview with the reporter(s) of the maltreatment.
  - 5) Interview with the alleged victim, which may take place without the approval of the vulnerable adult's parents, guardian, or caregiver, but cannot take place over the objection of the alleged victim.
  - 6) An opportunity for the alleged perpetrator to be interviewed.
2. 33 V.S.A. § 6906 (b) indicates a component of the investigation shall not be completed if doing so would jeopardize the health, welfare, or safety of the alleged victim.
- 1) The elimination of any investigation component shall require the approval of the APS Director or DLP Director.
3. 33 V.S.A. § 6907 (a) & (b) require the alleged victim be offered protective services, as necessary, and that consent or court approval be obtained before providing such services.
4. The APS Director shall develop procedures, according to which

investigators shall conduct investigations, to include procedures governing the review, approval, and documentation of requests to eliminate investigation components.

### **III) Face-to-Face Meeting with Alleged Victim**

1. APS shall conduct a face-to-face meeting with the alleged victim.
2. Timeliness of the face-to-face meeting with an alleged victim is dependent on the priority level given to the investigation during screening by intake staff, as described in APS Policy Manual Section IV regarding intake and screening.
  - 1) Level 1 investigations require referral to emergency services within one (1) hour and a face-to-face meeting within two (2) business days of assignment.
    - (a) Referral to emergency services shall be performed by APS intake staff.
  - 2) Level 2 investigations require a face-to-face meeting within two (2) business days of assignment.

- 3) Level 3 investigations require a face-to-face meeting within ten (10) business days of assignment.
3. If a face-to-face meeting with the alleged victim is not possible due to death, illness or because doing so would jeopardize their health, welfare, or safety, the investigator shall seek to interview the alleged victim through other means or, within ten (10) business days of assignment, shall seek to interview an authorized representative of the alleged victim, if available.
4. The APS Director shall develop procedures, according to which investigators shall conduct and document face-to-face meetings with the alleged victim.
5. The APS Director and the Office of Public Guardian Director shall develop procedures by which the Office of Public Guardian shall be notified if they are the guardian for the alleged victim.

#### **IV) Verification of Authority to Investigate**

1. As described in APS Policy Manual Section IV regarding screening, APS is authorized to conduct investigations when the alleged victim meets the definition of a vulnerable adult at 33 V.S.A. § 6902 (14)



and the alleged maltreatment meets the definition of abuse, neglect, or exploitation at 33 V.S.A. § 6902 (1), (6) or (7).

2. The screening process described in APS Policy Manual Section IV relies on reporter information, which, at times, may not be firsthand, or may be inaccurate or incomplete.
3. After contact with the reporter(s) and completion of the face-to-face meeting with the alleged victim, the investigator shall verify whether APS is authorized to investigate.
  - 1) If the conditions are met, the investigation shall proceed.
  - 2) If the conditions are not met, the investigation shall not proceed. The investigator shall follow a process established by the APS Director for the discontinuation of the investigation.
    - (a) The decision to discontinue the investigation shall be made by the APS Director or the DLP Director.
    - (b) The investigation components described in B) above and an Investigative Summary, as described in 33 V.S.A. § 6906 (c), shall not be required.

- (c) A Services and Protection Summary shall be required if the alleged victim is a vulnerable adult. If the alleged victim is not a vulnerable adult, the Services and Protection Summary is optional at the discretion of the investigator so long as the alleged victim completes a release authorizing APS to make referrals and/or implement protective services on their behalf.
- (d) The reporter(s) and alleged victim shall be notified that the investigation has been discontinued and that no further action shall be taken by APS at this time. The reason the investigation was discontinued shall be provided in the notification. For notifications to reporters, the reporter shall be informed of their right to a Commissioner's review.
- (e) If the alleged perpetrator is aware they are the subject of an APS investigation, they shall also receive notification that the investigation has been discontinued and that no further

action shall be taken by APS at this time.

- (f) The reasons for the discontinuation of an investigation shall be appropriately documented and available for review by the Department or in connection with any file review process.

## **V) Subsequent Reports**

1. In the event that APS receives a report that a vulnerable adult is being maltreated, and the report involves the same alleged victim and alleged perpetrator as an ongoing APS investigation, that report shall be attached to the existing investigation.
2. Investigation components described in B) above shall be completed in light of the subsequent report.
  - 1) If the investigator has already visited the alleged victim's place of residence or place of custody, the investigator shall have the discretion to determine if a second visit is required.
  - 2) If the investigator has already visited the location of the subsequent alleged maltreatment, the investigator shall

- have the discretion to determine if a second visit is required.
- 3) The investigator shall conduct interviews with all available witnesses involving the subsequent allegations.
  - 4) The investigator shall conduct an interview with the subsequent reporter.
  - 5) The investigator shall interview the alleged victim and/or their representative about the subsequent allegations.
    - (a) If the investigator has already conducted the face-to-face meeting with the alleged victim, the investigator shall have the discretion to determine if a second face-to-face meeting is required or if the interview can be conducted via other means, such as, but not limited to, telephone or email.
  - 6) If the alleged perpetrator has already been interviewed, the investigator shall provide the alleged perpetrator an opportunity for another interview if the subsequent report contains additional allegations or if the subsequent report leads to new information regarding the existing allegations.

## **VI) Timeliness of Protective Services During the Course of an Investigation**

1. During the course of an investigation and separate from protective services implemented during the intake process, if any, the investigator shall, if applicable, consistent with sections K) and L) below, and in accordance with 33 V.S.A. § 6907 (a), provide timely protective services to the alleged victim.
  - 1) The investigator shall make a referral to the appropriate emergency services within two (2) hours of becoming aware of any situation where the alleged victim:
    - (a) Is experiencing ongoing abuse or neglect that is reasonably expected to result in life-threatening or serious injury; or
    - (b) Is experiencing ongoing sexual abuse or sexual exploitation.
  - 2) The investigator shall begin the process of arranging for the protection of the alleged victim's assets by the end of the next business day after becoming aware of any situation where

the alleged victim is experiencing ongoing exploitation and the alleged perpetrator has access to the alleged victim's assets.

- 3) For all other protective services, the investigator shall begin the process of arranging for the provision of protective services within five (5) business days of determining the need for such services.
2. If the investigator suspects the commission of a crime, the investigator shall make a report to law enforcement by the conclusion of the next business day.
    - 1) Reporting a crime to law enforcement does not require the approval of the alleged victim and/or their representative.
    - 2) The investigator shall report to law enforcement even in circumstances when APS is not authorized to conduct an investigation.
    - 3) The investigator may share with law enforcement their concerns about potential jeopardy to the health, welfare, or safety of the alleged victim.
    - 4) Law enforcement shall determine how to proceed after receiving a report from APS.

## VII) Investigative Summary

1. 33 V.S.A. § 6906 (c) requires the submission of a written report (i.e., an Investigative Summary) to the Commissioner or designee.
2. The Investigative Summary is a single document that summarizes the investigation. It shall:
  - 1) Describe the allegations;
  - 2) Describe the steps taken by the investigator to investigate the allegations;
  - 3) Describe all evidence relevant to the allegations obtained during the investigation;
  - 4) Provide the investigator's recommendation; and
  - 5) Describe the basis of the investigator's recommendation.
3. The investigator's recommendation contained in the Investigative Summary must be supported by the evidence described in the Investigative Summary.
4. The APS Director shall establish procedures, according to which the Investigative Summary is prepared, reviewed, approved, and stored.
  - 1) For investigations that result in a recommendation of substantiation, the Investigative Summary must be

- approved or reviewed by either the APS Director or the DLP Director.
- 2) For investigations that result in unsubstantiation, the Investigative Summary must be reviewed by staff designated by the APS Director.
  - 3) The Investigative Summary shall be considered complete only after it has been reviewed and approved.

### **VIII) Services and Protection Summary**

1. 33 V.S.A. § 6907 (a) requires the completion of a written coordinated treatment plan, which is now referred to as the “Services and Protection Summary.”
2. The Services and Protection Summary is a single document that summarizes the services, referrals, and protections made by the investigator to assist the alleged victim and prevent or limit future maltreatment. It shall:
  - 1) Describe any unmet needs of the alleged victim; and
  - 2) Describe any referrals for services, including referrals to other investigative bodies, and protections implemented.
3. The Services and Protection Summary is not an investigation document.



- 1) The summary shall not contain information relevant to APS' recommendation for an investigation unless that information is already documented elsewhere in the Investigation Folder.
4. The Services and Protection Summary contains sensitive information regarding the alleged victim, to include personal health information and the source(s) of the services they receive.
  - 1) Disclosure of this sensitive information to anyone other than the alleged victim or their authorized representative could violate their privacy and could make them more susceptible to future maltreatment.
  - 2) As such, the Services and Protection Summary shall be made available only to Department staff, as necessary, file reviewers, and the alleged victim or their authorized representative.
  - 3) In the event that an alleged perpetrator appeals APS' recommendation of substantiation, the Services and Protection Summary shall not be provided to them as part of the investigation materials used by APS to reach its recommendation.

5. The investigator shall prepare a Services and Protection Summary for each investigation.
  - 1) If the alleged victim is not a vulnerable adult, the Services and Protection Summary is optional at the discretion of the investigator so long as the alleged victim completes a release authorizing APS to make referrals and/or implement protective services on their behalf.
6. Identifying an unmet need in the Services and Protection Summary does not obligate APS to act to meet that need or to arrange for that need to be met, if doing so would exceed APS' authority.
7. The APS Director shall establish procedures, according to which the Services and Protection Summary is prepared, reviewed, approved, and stored.
  - 1) The Summary shall not be stored in the Investigation Folder, as it is not an investigation document.
  - 2) The Summary shall be considered complete after it has been reviewed and approved by the investigator's supervisor.

## **IX) Investigation Completion and Timeliness**

1. Investigations, which are composed of investigative field work followed by documentation of the field work, shall be completed within 120 days of assignment from intake.
2. Investigative field work shall be concluded with 90 days of assignment from intake.
  - 1) In the event of a subsequent report to APS involving the same alleged victim and alleged perpetrator but with different allegations of maltreatment, the investigator shall have 90 days to complete all investigative field work from the subsequent report's assignment by intake.
  - 2) In the event of a subsequent report to APS involving the same alleged victim and alleged perpetrator with the same allegations of maltreatment, the investigator may be granted up to 30 additional days to complete all investigative field work.
    - (a) If the subsequent report is assigned within 60 days of the original investigation's assignment from intake, no additional time for field work shall be provided.
    - (b) If the subsequent report is assigned after 60 days of the original

investigation's assignment from intake, the new deadline for the completion of investigative field work shall be 30 days from the assignment of the subsequent report.

3. Completion of the Investigative Summary and the Services and Protection Summary shall be completed within 30 days of the completion of investigative field work.
  - 1) The investigation shall be considered complete when both summaries have been approved.
4. At the sole discretion of the APS Director or the DLP Director, investigation completion in fewer than 120 days for specific investigations may be required.
5. All investigation materials shall be delivered to APS central office within 60 days of investigation completion.

## **X) Investigation Extensions**

1. In certain circumstances, it may not be possible to complete an investigation within the timelines established in I) above, in which case the granting of an extension may be appropriate.
2. The primary purpose of an extension is to give the investigator additional time to reach the appropriate conclusion for their

investigation and/or to properly document that conclusion.

3. The APS Director may approve an extension requests for investigative field work under the following circumstances:
  - 1) One or more individuals who are critical to the investigation are temporarily unavailable and reasonably expected to be available within 180 days.
  - 2) The investigator has requested and is waiting for records critical to completing a comprehensive investigation.
  - 3) The investigation is a complex investigation that requires additional time to complete a comprehensive investigation.
  - 4) The investigation is connected to other investigations involving multiple alleged victims and/or alleged perpetrators and requires additional time to complete all investigation components.
  - 5) There is an ongoing and related investigation by another investigative body, and it is in the best interest of the alleged victim or to protect potential victims to delay the APS investigation.

- (a) The existence of investigation by another investigative body alone is not justification for an extension.
- 6) The scheduling of a judicial proceeding relevant to the APS investigation extends beyond the required timeline for closure.
  - (a) The existence of a judicial proceeding alone is not justification for an extension.
- 7) The investigation requires management and/or legal review before field work can conclude.
- 8) Medical leave of the assigned investigator of more than 5 business days, provided the investigator is anticipated to return to work and the APS Director determines it shall be less disruptive to the alleged victim for the investigation to continue with the same investigator.
- 4. The APS Director may approve an extension request to complete the required summaries under the following circumstances:
  - 1) The investigation is connected to other investigations involving multiple alleged victims and/or alleged perpetrators and requires additional time to complete all relevant summaries.

- 2) Either of the required summaries requires management and/or legal review before a conclusion can be reached.
- 3) Medical leave of the assigned investigator of more than 5 business days, provided the investigator is anticipated to return to work.
5. The DLP Director may approve extension requests that are not listed in 3) and 4) above.
6. The APS Director shall develop procedures for requesting an extension.
7. When granting a request for an extension, the APS Director or the DLP Director shall establish a new deadline for investigation completion.

## **XI) Notifications**

1. 33 V.S.A. § 6906 (a)(2)(C) requires the Department to notify the alleged victim (and their legal representative, if any), the alleged perpetrator, and the reporter(s) of the outcome of the investigation within five (5) business days after the decision is made.
  - 1) 33 V.S.A. § 6906 (a)(2)(C) provides that the notification to the reporter(s) shall inform the reporter(s) of their

- right to ask the Commissioner to review the decision.
- 2) 33 V.S.A. § 6906 (c) provides that for recommendations of substantiation, the alleged perpetrator shall be notified of:
    - (a) The evidence which forms the basis of the recommendation of substantiation;
    - (b) The alleged perpetrator's right to request an appeal before the Commissioner or designee; and
    - (c) How a substantiated report might be used.
  - 3) Notification shall be provided via letter or email and shall not be provided verbally.
2. The APS Director shall establish procedures, according to which notifications are prepared, distributed, and documented.
  3. 33 V.S.A. § 6906 (a)(2) establishes that the alleged victim and reporter(s) shall be kept informed during all stages of the investigation. During an investigation:
    - 1) The alleged victim shall be notified of the APS investigation by the investigator as part of their face-to-face meeting.
    - 2) The reporter(s) shall be notified of the APS investigation by the investigator



- as part of the investigator's requirement to interview the reporter(s).
- 3) The alleged victim and reporter(s) will be notified of the outcome of the investigation in writing within five (5) business days of the investigation's completion.
  4. Information beyond what is described above at 1) shall be provided only upon request and at the discretion of the APS Director.
    - 1) When describing the stage of an investigation, the alleged victim and the reporter(s) shall be told that:
      - (a) The report has been screened in for investigation and investigative field work is ongoing;
      - (b) The investigator has completed their investigative field work and is preparing their documentation; or
      - (c) The investigation is complete (and notifications shall be provided within five (5) business days).
  5. APS staff shall not inform the alleged victim or reporter(s) of the status of an investigation verbally unless staff can confirm the identity of the individual. Without confirmation, the status shall only be provided via letter or email to the alleged victim and reporter(s) using the

contact information collected by APS as part of its investigation.

6. At no point during the investigation shall a member of APS provide an investigation participant with an opinion on the likely outcome of an investigation.

## **XII) Consent of the Alleged Victim**

1. As described at 33 V.S.A. § 6907 (b)(1), services shall be provided only with the consent of the vulnerable adult, their guardian, or by court action.
2. As described at 33 V.S.A. § 6907 (b)(2), if the vulnerable adult's guardian is the alleged perpetrator, and the guardian does not consent to the investigation or receipt of protective services, APS may petition for removal of the guardian.
  - 1) If APS staff believes that a guardian should be removed, staff shall follow APS Policy Manual Section XIII regarding guardianship.
3. As described at 33 V.S.A. § 6906 (b)(4), the alleged victim has the right to decline to be interviewed or otherwise participate in the investigation.
  - 1) Although the alleged victim has the right to decline to be interviewed, APS shall proceed with the investigation unless the conditions in N) below are met.

### **XIII) Cooperation with Other Investigative Bodies**

1. APS shall conduct and conclude its own investigations.
2. 33 V.S.A. § 6911 (a) authorizes APS to share certain information with other investigative bodies under limited circumstances.
3. A “joint investigation” means an investigation in which APS actively partners with another investigative body, and individuals from both bodies coordinate actions, collect evidence together, and, as permitted by law, share information.
  - 1) Investigations where staff from other investigative bodies are investigation participants but do not coordinate actions with APS, collect evidence with APS, and/or share information with APS are not joint investigations.
4. APS may conduct joint investigations with other investigative bodies with the prior approval of the APS Director.
  - 1) The APS Director shall establish a process, according to which requests

to conduct joint investigations are reviewed.

- 2) APS participation in a joint investigation shall be limited to investigating allegations of maltreatment against a vulnerable adult that meet the statutory definition of abuse, neglect, or exploitation.
  - (a) Participation beyond this scope must be approved in advance by the Commissioner.
5. Subject to the approval of the APS Director, investigators may deviate from established procedures to avoid conflict with ongoing investigations conducted by other organizations; however,
  - 1) APS shall not delay its own investigation unless there is a compelling reason that such delay would be in the best interest of the alleged victim; and
  - 2) The APS Director shall include in the Investigation Folder any and all documentation relied upon to support a deviation from established procedures.

#### **XIV) Discontinuing an Investigation to Prevent Harm to the Alleged Victim**

1. As described in 33 V.S.A. § 6906 (b), the individual components of an investigation shall be completed unless doing so would jeopardize the health, welfare, or safety of the alleged victim.
2. An investigation may be discontinued if the APS Director or the DLP Director reasonably believes that continuing to engage in the collection of the evidence needed to lead a reasonable person to believe that the vulnerable adult has been abused, neglected, or exploited would jeopardize the health, welfare or safety of the alleged victim.
  - 1) If an investigation involves domestic violence, the APS Director or the DLP Director, in assessing whether to discontinue an investigation, may consider the alleged victim's unwillingness to access domestic violence services. Such unwillingness while an investigation is ongoing could place the alleged victim at greater risk of violence, thereby jeopardizing the health, welfare, or safety of the vulnerable adult.
    - (a) As defined in 13 V.S.A. § 1042, domestic assault occurs when any

person attempts to cause or willfully or recklessly causes bodily injury to a family or household member, or willfully causes a family or household member to fear imminent serious bodily injury.

- (b) If an investigation involves domestic violence and is discontinued as a result of the alleged victim's unwillingness to access domestic violence services, the investigator shall still make applicable referrals and complete a Services and Protection Summary.
3. The APS Director shall establish procedures, according to which investigators may request to discontinue an investigation on the grounds that proceeding would jeopardize the health, welfare, or safety of the alleged victim. Such procedures shall require an investigator to produce documentation in support of the request to discontinue the investigation.

## **XV) Discontinuing an Investigation in Light of Criminal Conviction**

1. When a person is convicted of a crime under 13 V.S.A. Chapter 28, including the imposition of a deferred sentence, 13

V.S.A. § 1383 requires the person be placed on the Adult Abuse Registry.

2. If an individual is placed on the Adult Abuse Registry as a result of 13 V.S.A. § 1383, and there is an ongoing APS investigation of the individual, which is examining the same allegations that resulted in the criminal conviction, APS may, at the discretion of the APS Director or the DLP Director, and only after consultation with DAIL's Legal Unit, discontinue its investigation without finding, pursuant to 33 V.S.A. § 6906 (a)(2)(A). If such a decision is made, APS shall notify the reporter, the victim, and the victim's legal representative, if any, within five (5) business days after the decision is made and shall inform the reporter(s) of the right to ask the Commissioner to review the decision.
  - 1) Upon discontinuing an investigation as a result of placement on the Registry stemming from a criminal conviction, APS shall not prepare an Investigative Summary.
  - 2) APS shall prepare a Services and Protection Summary, if applicable.
  - 3) All investigation materials collected, if any, shall be retained by APS.
    - (a) These investigation materials shall only be released as authorized by

33 V.S.A. § 6911(a)(1); however, the Services and Protection Summary shall be available to the alleged victim or their authorized representative.

## **XVI) Requirements of a Diligent Search Effort**

1. If an investigator has been unable to locate an individual critical to the investigation, the investigator must demonstrate, to the satisfaction of their supervisor, that they have made a diligent effort to search for and locate the individual. The following activities constitute a diligent search:
  - 1) Making a visit to the individual's reported location, if known.
    - (a) At the investigator's discretion, the investigator may request the assistance of law enforcement to determine if the individual sought is at that location.
  - 2) Contacting other investigation participants that may have information regarding the location of the individual, if applicable.
  - 3) Contacting the office of the town clerk to request a check of its records for



- information regarding the location of the individual, if the town is known.
- 4) Contacting the local law enforcement agency to request a check of its records for information regarding the location of the individual, if the town is known.
  - 5) Using information sources available at the APS Central Office to locate the individual.
  - 6) Sending a certified letter to the individual requesting they contact APS, if their address is known.
  - 7) Reviewing prior APS records and/or interviewing APS staff involved in prior investigations.

## **XVII) Investigation Management**

1. The APS Director shall develop procedures, according to which investigations shall be monitored and managed.
  - 1) Investigations shall be managed in a manner that ensures continuity of investigations in the event of the departure of the assigned investigator.
  - 2) Investigations shall be managed in a manner to ensure compliance with 33 V.S.A. Chapter 69, this policy manual, and any applicable protocols.

2. The APS Director shall develop performance expectations for investigators.
  - 1) Performance expectations shall be the primary basis for performance feedback and evaluations.
  - 2) The APS Director is authorized to require additional monitoring and management of investigative staff who do not meet performance expectations.
    1. perpetrator's prior history of abusive behavior (for e.g. the APS IMS database, the Adult Abuse Registry, the VCIC) and;
    2. May also include identification and interview of other potential victims.
    3. If the alleged incident occurred in a licensed facility or other setting (such as Choices for Care) where the alleged perpetrator may have continued access to other vulnerable adults, the Investigator will identify, contact and interview those individuals, and take protective measures as needed.

## VII. Section VII – Combined into VI

## VIII. Case Disposition and Notification

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations.*

*Updated September 26, 2013.*

To section ensures the process for making a final case disposition is standardized, fair, accurate and timely, the final case disposition requires submission of a full report with findings based upon accurate and reliable information. The final disposition of a case includes completion of the Compliance Checklist and the final, written investigative report.

A recommendation for a substantiation or non-substantiation will be made at the conclusion of the investigative report, as follows:

### **A. Non-substantiation Recommendation:**

The recommendation is based on a finding that the allegation(s) cannot be substantiated because a preponderance of

evidence does not support the allegation(s). A non-substantiation recommendation will be made when:

1. The evidence and facts gathered do not support the allegations; or
  2. 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
1. The client/victim cannot be located or is deceased and APS cannot obtain a preponderance of evidence to support a substantiation; or
  2. The alleged victim refuses to participate in the APS investigation, and the Investigator has determined they have capacity to make an informed decision.

**B. Substantiation Recommendation:** The recommendation is based on a finding that the allegation(s) can be substantiated because a preponderance of evidence would lead a reasonable person to believe that the vulnerable adult has been abused, neglected or exploited.

**C. Letters of Notification:** 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:

1. 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.
2. The victim and/or their legal representative will be notified that a recommendation of substantiation or non-substantiation has been made.
3. The reporter will be notified of the outcome of the investigation.

## IX. Contents of the Investigative Case Record

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations.*

This section provides policy to ensure that all information gathered during the course of the APS investigation is documented in a standardized manner, maintained in a confidential case record file, and reflect an accurate and thorough investigation.

APS case files and contents will be submitted upon completion of an investigation. All case files will be maintained in two-clasp or four-clasp folders, dependent upon the size of the case file record. All case file information pertinent to the investigation will be included in the case file record including documents, evidence and other materials, as follows:

A. **Case Records for Unsubstantiated/Substantiated Reports:** These records shall include the following:

1. A printed copy of the Intake /Screening form.

2. Face to Face document
3. The Investigation Summary Report including:
  - a. Investigative sources
  - b. Findings
  - c. Application of relevant statute and recommendation
  - d. Case determination and allegation findings
4. Identification of all protective services provided or referrals made.
5. Description of the coordinated treatment plan, if applicable. See §VII (E).
6. The investigative notes.
7. All correspondence.
8. All evidence (e.g. photos, records, audio recordings, etc.).

## X. Retention of Records

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations.*

*Updated September 26, 2013.*

The objective of this section is to insure the maintenance of well organized, complete records are kept in a confidential location and retained according to legal requirements.

APS records will be maintained according to type of record, program, legal and/or other requirements, as follows:

- A. **Contact Closures:** Reports determined to be Contacts will be retained for one year from date of receipt of the original report.
- B. **Reports:** A record of all reports received shall be maintained in the APS data base, including the date of the allegation, the names, addresses and phone numbers of the alleged victim and perpetrator, and the nature of the allegation.
- C. **Non-Substantiations:** If a report is found to be unsubstantiated, the records



shall be retained as part of the confidential records of DAIL (6906(e). If no court proceeding is brought pursuant to subdivision 6903(c)(3) of this title within six years of the date of the notice to the person against whom the complaint was lodged, the records relating to the unsubstantiated report shall be destroyed after notice to such person, unless he or she requests that the records not be destroyed.

- D. **Substantiations**: Records of substantiated case files shall be maintained in a secure, locked file cabinet. When an appeal for expungement from the Adult Abuse Registry has been granted the case file shall be retained for one year from the date of expungement, unless an additional allegation against the individual has occurred.
- E. **Consent for Release Forms**: Adult Abuse Registry Consent for Release Forms will be retained for seven (7) years if the Registry check confirms an individual's name is on the Adult Abuse Registry. If the check is negative, the Consent for Release Form will not be retained by APS.
- F. **Letters**: All letters related to contacts, withdrawals and non-substantiated reports will be retained for one year.

## XI. Adult Abuse Registry

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations. Updated September 26, 2013.*

This section describes the process by which names of individuals substantiated for abuse, neglect or exploitation of a vulnerable adult are added to the adult registry and the circumstances when this information may be released.

The Division of Licensing and Protection shall maintain the Adult Abuse Registry.

The procedures for maintenance of the Adult Abuse Registry will be as follows:

- A. Addition of Name to the Registry:** In cases of a substantiated finding the name of the perpetrator shall appear on the Adult Abuse Registry only after all the appeals processes have been exhausted. If the recommendation for substantiation is upheld after completion of the appeals

process, the individual name shall be placed on the Adult Abuse Registry.

**B. Disclosure of Information:** APS may disclose information from the Registry to employers who employ or contract with one or more persons to care for a vulnerable adult.

**C. Registry Access by Employers:** Employers may access the Registry by submitting a Consent for Release of Information Form to APS, as follows:

1. The form must be an original, signed by the individual who is employed by, or has applied for employment with the employer, and/or who has been given a conditional offer of employment.
2. The prospective employee must provide their name; other names they have used; their original signature; current address; date of birth; social security number; and a telephone number.
3. The request will be processed by the designated APS staff person within seven (7) working days of receipt of the consent form and request.

4. APS/Division of Licensing will retain registry checks resulting in a finding that the employee or prospective employee's name is on the Adult Abuse Registry. A copy of the processed Consent for Release Form shall be returned to the requesting employer for their records.
5. When a Registry check results in a finding that the prospective employee's name is not on the Registry, the original Consent to Release Form will be returned to the requesting employer for retention in their records. APS/the Division will not retain a copy.

**D. Registry Access by Department**

**Personnel:** Access to the Registry is limited to designated staff within DAIL, including the Commissioner and his/her designee, the Director of the Division of Licensing/Protection and his/her designee, and the APS Program Chief and his/her designee.

**E. Expungement from the Registry:** An individual whose name has been placed on the Registry may petition to have their name expunged as follows:

1. The request must be made in writing to the Commissioner. The burden of

- showing why their name should be expunged rests with the petitioner.
2. The Commissioner's office will schedule an informal hearing with the petitioner and provide written notice of their decision regarding the request for expungement.
  3. APS will be responsible for removal of the person's name from the Registry within three (3) working days of receiving notice of the decision to expunge.
  4. APS will notify the Office of Professional Regulation/VT Nursing Board when a licensed individual's name is expunged from the Registry.

## XII. Conflict of Interest

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations. Updated September 26, 2013.*

The objective of this section is to insure all reports of abuse, neglect or exploitation of a vulnerable adult are handled in an objective and impartial manner.

From time to time a conflict of interest may arise related to an APS report and/or investigation. In such circumstances APS will take the following steps:

- A. Conflict of Interest re: DLP and/or APS:** If the Secretary of the Agency of Human Services or DAIL’s Commissioner or a member of his/her staff receives a report alleging abuse, neglect or exploitation as a result of acts or omissions on the part of the DLP Director, APS Program Chief or APS staff:
1. S/he shall cause the report to be investigated by another Department within AHS.

2. If an APS Investigator has an actual or potential conflict of interest regarding an assigned investigation they will inform the APS Program Chief and request to be recused from further involvement with the case. The Program Chief will promptly review the information, make a determination as to how to proceed and reassign the case accordingly.

**B. Conflict of Interest re: Secretary of AHS, DAIL, DLP, APS:** If a report is received alleging abuse, neglect or exploitation occurred as a result of acts or omissions on the part of the Secretary of AHS or DAIL's Commissioner or a member of his/her staff, other than staff of DLP/APS, the Director of the Division of Licensing and Protection shall cause the report to be investigated by another Department within AHS.

**C. Conflict of Interest re: Appeals:** If the DAIL Commissioner has an actual or potential conflict of interest regarding an assigned appeal s/he will inform the DAIL legal division and request the appeal be reassigned.

### **XIII. Mandatory Reporting & Failure to Report Investigations**

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations. Updated July 11, 2016.*

The objective of this section is to describe mandatory reporting requirements and the process by which failure to report investigations will be conducted.

#### **A) Authority**

- 1) The mandatory reporting obligation and related requirements are established in 33 V.S.A. §6901, §6903, §6904, §6905, §6912, and §6913. It is the intention of the signers that the policy laid out below is consistent with this statutory language. If there is conflict between this policy and statute, deference will be given to the governing statute.



## **B) Mandatory Reporting Requirements**

- 1) Mandatory reporters are required to make a report to Adult Protective Services (APS) when:
  - a) They know or reasonably suspect that a vulnerable adult has been or is being abused, neglected, or exploited.
    - i. If a mandatory reporter directly observes a condition that may have been caused by abuse, neglect, or exploitation, but they do not reasonably suspect abuse, neglect, or exploitation, and they have not received information that the condition may have been caused by abuse, neglect, or exploitation, the mandatory reporter is not required to make a report to APS.
  - b) They have received information alleging that a vulnerable adult has been or is being abused, neglected, or exploited.
    - i. Mandatory reporters are required to report, even if they do not believe the information they have received alleging abuse, neglect or

- exploitation of a vulnerable adult is true.
- ii. Mandatory reporters may include in their report their opinions about the veracity of the information they received and are reporting to APS.
- 2) Mandatory reporters are required to make a report within 48 hours of knowing or reasonably suspecting or receiving information about or alleging abuse, neglect or exploitation of a vulnerable adult.
  - 3) Mandatory reporters are not required to report if they have previously received documentation, including, but not limited to, a Critical Incident Report, that a report to APS has been made, and that report included the specific allegations the mandatory reporter would include if they were to file a report.
  - 4) Mandatory reporters are required to submit reports orally or in writing.
    - a) Reports made to APS through web-intake, email, fax, mail, or personal delivery of written statements is considered in writing.
    - b) Reports made to APS through telephone, voicemail, or in person without a written statement are considered oral. When a mandatory reporter makes an oral report, APS

shall request that the reporter provide a written report within one week that includes the information listed in B)5) below.

- 5) Pursuant to 33 V.S.A. §6904, mandatory reporters are required to provide, at a minimum:
  - a) The mandatory reporter's name and address.
    - i. Mandatory reporters may not make anonymous reports.
  - b) The name and address of the vulnerable adult, if known.
  - c) The name and address of the persons responsible for the care of the vulnerable adult, if known.
  - d) The age of the vulnerable adult and the nature of their disability, if known.
  - e) The nature and extent of the abuse, neglect, or exploitation of the vulnerable adult, to include any evidence of previous abuse, neglect, or exploitation, if known.
  - f) Any other information the mandatory reporter believes might be helpful in establishing the causes of the injuries or the reasons for the known, reasonably suspected or alleged abuse, neglect, or exploitation. Reporters may include in their report their opinions about the veracity of the

information they received and are reporting to APS.

- g) Any other information the mandatory reporter believes might be helpful in protecting the vulnerable adult.

### **C) Intake and Screening**

- 1) When APS Intake receives allegations that a mandatory reporter failed to report they will document these allegations within the APS case management database.
- 2) Except as noted at 3), the Assistant Director for APS will make a screening decision within four business days of the APS Intake.
  - a) If the mandatory reporter is a caregiver, and it is evident from the information gathered during the intake process that the mandatory reporter made a reasonable effort to protect the vulnerable adult from abuse, neglect, or exploitation, the Assistant Director for APS may initiate a failure to report investigation as laid out in E) below and will consider the information supporting the reasonable efforts to protect the vulnerable adult before initiating an APS investigation for neglect.

- b) If the mandatory reporter is a caregiver, and it is evident from the information gathered during the intake process that the mandatory reporter did not make a reasonable effort to protect the vulnerable adult from abuse, neglect, or exploitation, the Assistant Director for APS may initiate an APS investigation for neglect.
  - c) If the mandatory reporter is not a caregiver, the Assistant Director for APS may initiate a failure to report investigation as laid out in E) below.
- 3) If the mandatory reporter is a DAIL employee, pursuant to 33 V.S.A. §6904 the Assistant Director for APS shall refer the matter to the Office of the Secretary of the Agency of Human Services, which shall not be bound by the provisions of this policy manual but shall ensure the report is screened and, if appropriate, investigated in accordance with statute for the purpose of avoiding a conflict of interest, or the appearance of a conflict of interest.

**D) Investigation of a Caregiver for Neglect for a Failure to Report – Condition for Recommended Substantiation**

- 1) When a caregiver is investigated for neglect as a result of a failure to report, evidence that the caregiver made a reasonable effort to protect the vulnerable adult from abuse, neglect or exploitation shall be considered in determining whether to recommend substantiation for neglect.

**E) Investigation for a Failure to Report Not Constituting Neglect**

- 1) The APS Investigator will follow standard APS investigative procedures to gather evidence from investigation participants and records relevant to the investigation for the purpose of determining if a non-caregiver mandatory reporter satisfied or violated the reporting requirements set forth above in B).
- 2) The APS Investigator will offer the mandatory reporter an opportunity for an interview and an opportunity to provide evidence relevant to the investigation.

- 3) At the conclusion of the investigation, and within 60 days of receiving an assignment, the APS Investigator will prepare a written memo addressed to the Assistant Director for APS documenting the investigation.
  - a) The Assistant Director for APS may extend the investigation deadline upon the request of the APS Investigator based on the criteria found at APS Policy Manual Section VII C.
- 4) The memo will include the following sections.
  - a) Recommended Determination: This section will include the APS Investigator's determination concerning whether the mandatory reporter satisfactorily met the reporting requirements established in B) above. If the mandatory reporter failed to meet the reporting requirements established in B) above, this section will include the APS Investigator's determination concerning whether the mandatory reporter willfully violated their reporting requirements.
  - b) Determination Rationale: This section will include the APS Investigator's rationale for the determination.
  - c) Investigation Summary: This section will provide a summary of the

- investigation conducted by the APS Investigator.
- d) **Negative Results:** This section will only be used if the APS Investigator determines the mandatory reporter willfully violated the reporting requirements. This section will provide a description of any negative outcome(s) resulting from the mandatory reporter's failure to report and identify the source of the information regarding the negative outcome(s).
  - e) **Signature Block:** This section will provide the Assistant Director for APS a place to sign the investigative memo indicating approval of the investigation.
  - f) **Attachments:** The APS Investigator will attach all information gathered during the investigation
- 5) The APS Investigator will submit the completed memo to their supervisor. After the supervisor reviews and approves the investigation and recommended determination, the supervisor will submit it to the Assistant Director for APS.
- 6) The Assistant Director for APS will review the memo.
- a) If the Assistant Director for APS approves the memo, they will sign it



- and proceed with appropriate further action.
- b) If the Assistant Director for APS disapproves the memo, they will return it to the investigator for revisions and/or additional investigation, after which the memo will be returned to the APS Director for review.
- 7) The Assistant Director for APS will notify the mandatory reporter in writing of the outcome of the investigation within five business days of approving the investigative memo. If the APS Investigator determines the mandatory reporter willfully violated the mandatory reporting requirements, the APS Director will provide notice of the mandatory reporter's right to request a Commissioner's hearing.
- a) The mandatory reporter may request a copy of the investigative memo. The memo will be redacted, as required by law, to protect the safety and privacy of any vulnerable adults that are referenced in the investigation.
  - b) The mandatory reporter will have 15 calendar days to request a Commissioner's hearing.
- 8) If the APS Investigator determines that the mandatory reporter willfully violated the mandatory reporting requirements, the

Assistant Director for APS will provide the DAIL Commissioner with a copy of the completed investigation within five business days of approving it.

**F) Commissioner Review When Investigation Determines a Mandatory Reporter Willfully Violated Mandatory Reporting Requirements**

- 1) The DAIL Commissioner will review the investigative information provided by APS and, if a hearing is requested, hold a hearing within 45 days of receipt of a request for a hearing by a mandatory reporter.
  - a) At a hearing, the DAIL Commissioner shall consider, in addition to the APS investigative recommendation/determination, the information presented by the mandatory reporter, if any, to determine if the mandatory reporter willfully violated the mandatory reporting obligation.
- 2) The DAIL Commissioner will notify the mandatory reporter of the decision in

writing within 45 days of the request for a hearing.

- 3) If a hearing is not requested, the DAIL Commissioner shall make a finding as to failure to report based on the information in the APS investigative materials.

### **G) Criteria for Failure to Report Penalties when a Mandatory Reporter Willfully Violated Mandatory Reporting Requirements**

- 1) If the DAIL Commissioner upholds the APS investigator's determination that the mandatory reporter willfully violated the mandatory reporting requirements, they will also determine whether administrative penalties, as provided for in 33 V.S.A. §6913(b), will be imposed.
- 2) The DAIL Commissioner shall consider the following factors when determining the administrative penalty to impose.
  - a) The mandatory reporter's knowledge, or lack of knowledge, about the mandatory reporting obligation.
  - b) Previous allegations of failure to report by the mandatory reporter.
  - c) The severity of harm resulting from the failure to report.

- d) If the mandatory reporter made a report but made it beyond 48 hours, the amount of time that elapsed between the knowledge, suspicion or receipt of information concerning the possible abuse, neglect or exploitation and the date of the report by the mandatory reporter.

## **H) Records**

- 1) Intakes and investigations pertaining to this section will be recorded by APS in the same manner as intakes and investigations for abuse, neglect, and exploitation.

## **XIV. Hearings and Appeals**

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations. Updated July 7, 2017.*

The objective of this section is to document policy pertaining to APS-related Commissioner Reviews.

### **I) Appeals Authority**

- A) The appeal rights of reporters and alleged perpetrators are established by 33 V.S.A. Chapter 69.

### **II) General Commissioner Review Guidelines**

- A) The Commissioner's Office, APS, and DAIL Legal shall process and rule on requests for a Commissioner Review as expeditiously as possible.
- B) At their discretion, the Commissioner or designee may consult with APS staff during the process of performing a Commissioner Review.

- 1) The Commissioner or designee may consult with APS staff prior to rejecting a recommendation for substantiation, reversing a screening/investigation decision, or granting an expungement request.
- C) At their discretion, the Commissioner or designee may request that APS staff perform additional investigative work during the process of performing a Commissioner Review.
  - 1) APS staff shall comply with such a request in a timely manner.

### **III) Recommendation of Substantiation without a Request for a Commissioner Review**

- A) The Division of Licensing and Protection (DLP) Director is the Commissioner's designee to review recommendations of substantiation when a Commissioner Review to challenge a recommendation of substantiation is not requested within the statutory time frame.

### **IV) Criteria to be Used During Particular Types of Commissioner Reviews**

- A) Review of Screening/Investigation

Decisions: The Commissioner or designee shall reverse a screening/investigation decision only if the information provided by the reporter is sufficient to establish that a vulnerable adult may have been abused, neglected, or exploited. In making this determination, the Commissioner or designee shall also consider:

- 1) Whether the screening/investigative process was conducted in accordance with statute, policy, and protocol.

C) Review of Unsubstantiation

Recommendations: The Commissioner or designee shall accept a recommendation for unsubstantiation unless the reporter establishes that there is accurate and reliable information that would lead a reasonable person to believe that a vulnerable adult has been abused, neglected, or exploited. In making this determination, the Commissioner or designee shall also consider:

- 1) Whether the investigation was conducted in accordance with statute, policy, and protocol.
- 2) Whether the evidence collected is sufficient to establish abuse, neglect, or exploitation of a vulnerable adult under the preponderance of the

evidence standard required at Human Services Board appeals.

D) Review of Substantiation

Recommendations: The Commissioner or designee, to include the DLP Division Director as described in C) above, shall accept a recommendation for substantiation only if it is based upon accurate and reliable information that would lead a reasonable person to believe that a vulnerable adult has been abused, neglected, or exploited. In making this determination, the Commissioner or designee shall also consider:

- 1) Whether the investigation was conducted in accordance with statute, policy, and protocol.
- 2) Whether the evidence collected is sufficient to establish abuse, neglect, or exploitation of a vulnerable adult under the preponderance of the evidence standard required at Human Services Board appeals.

E) Review of Expungement Requests: The Commissioner or designee shall deny an individual's request to expunge their name from the Adult Abuse Registry unless the individual establishes that they no longer present a risk of harm to vulnerable adults. In making this determination, the



Commissioner or designee shall consider the following:

- 1) The nature and seriousness of the individual's maltreatment of the vulnerable adult.
- 2) Any mitigating circumstances that may have existed at the time of the maltreatment.
- 3) The amount of time elapsed since the date(s) of the maltreatment.
- 4) Any other official proceedings involving the individual stemming from the same maltreatment underlying the substantiation (such as criminal charges or professional disciplinary action), including whether there was any official action taken against the individual and the extent of the individual's compliance with any imposed requirements.
- 5) Any other APS reports, investigations, or substantiations involving the individual, both before and after the substantiation.
- 6) The level of responsibility the individual has taken for their actions.
- 7) Any steps the individual has taken since the substantiation to rehabilitate him or herself,

including such things as therapy, anger management or training in how to deal with patients with difficult behaviors.

- 8) Any other steps taken by the individual to ensure they will not abuse, neglect, or exploit a vulnerable adult in the future.
- 9) Any letters of reference provided by the individual.
- 10) Any other information that the Commissioner or designee deems relevant to the issue of whether the individual continues to present a risk of harm to vulnerable adults.

## Guardianship

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations. Effective Date: January 9, 2018.*

The objective of this section is to document how APS will consider petitioning for a new guardianship or moving to modify or terminate an existing guardianship as a protective service..

### **1) Guardianship Philosophy**

- A) Unlike other protective services arranged for by Adult Protective Services (APS), guardianship, by definition, removes rights from a vulnerable adult.
- B) The Department of Disabilities, Aging, and Independent Living (DAIL) is committed to providing vulnerable adults with the greatest amount of autonomy and self-determination possible.

- C) APS will only consider petitioning for guardianship in situations where it is reasonably believed a vulnerable adult is likely to suffer future abuse, neglect, or exploitation without a guardian, and it is reasonably believed that guardianship will be an effective strategy in the specific situation.
  - 1) Considering the long-term effects of guardianship for a vulnerable adult, APS will avoid using guardianship to address emergency situations more suitable for first responders.
- D) APS will only consider petitioning for guardianship in situations that meet the criteria for guardianship established at 14 V.S.A. 3061(1) or 18 V.S.A. 9302(5).
- E) When petitioning for guardianship has been determined to be appropriate, APS will only pursue the minimum level of guardianship necessary to prevent future abuse, neglect, or exploitation.

## 2) Definitions

- A) For the purpose of this section of the APS Policy Manual, “Commissioner” means the DAIL Commissioner or their designee.
- B) For the purpose of this section of the APS Policy Manual, “DAIL Legal” means the DAIL General Counsel or their designee, or an Assistant Attorney General assigned to DAIL.

## 3) Optional Consultation with Office of Public Guardian

- A) When an APS Investigator encounters a vulnerable adult, and the investigator reasonably believes that the vulnerable adult is likely to suffer future abuse, neglect, or exploitation without a guardian or without modification to, or termination of, an existing guardianship, the investigator may consult with the Office of the Public Guardian (OPG), to include sharing information collected by APS relevant to a discussion of guardianship.

#### **4) Participation in Guardianship Hearings as a Factual Witness**

- A) APS Investigators may participate in guardianship hearings as a factual witness when the petitioner for guardianship is not a member of APS.
- B) Prior to participating in the guardianship hearing, however, the APS investigator will consult with DAIL Legal.
- C) The APS Investigator will comply with the guidance of DAIL Legal during the petition process.

#### **5) Petitioning for Private Guardianship**

- A) If a private guardian is available, the APS Investigator may petition the court to appoint a guardian or may move to modify or terminate an existing guardianship with a private guardian under the following conditions:
  - 1) The investigator has consulted with DAIL Legal; and

- 2) DAIL Legal supports the petition for guardianship or the motion to modify or terminate an existing guardianship.
- B) The APS Investigator will comply with the guidance of DAIL Legal during the petition process.
- C) If an investigator wishes to petition a court to appoint a guardian or move to modify or terminate an existing guardianship with a private guardian, but DAIL Legal does not support that approach, the investigator may only proceed with the approval of the Commissioner.
  - 1) The APS Investigator will request an appeal of DAIL Legal's decision to the Commissioner through their supervisor to the Assistant Director for APS.
- D) APS may recommend private guardians that charge a fee for guardianship service when the vulnerable adult has the means to pay for guardianship services.

## **6) Petitioning for Public Guardianship**

- A) The APS Investigator will only consider a public guardian if no suitable private guardian is available.

- 1) If the vulnerable adult has the means to pay for guardianship services, the APS Investigator will first recommend a private guardian before recommending a public guardianship.
- B) The APS Investigator may petition the court to appoint a new guardian or may move to modify or terminate an existing guardianship with a guardian identified by OPG under the following conditions:
- 1) The investigator has consulted with OPG;
  - 2) OPG supports the appointment of a public guardian;
  - 3) The investigator's petition, if necessary, is consistent with the recommendations of OPG;
  - 4) The investigator has notified DAIL Legal; and
  - 5) DAIL Legal approves the petition for guardianship with a public guardian or the motion to modify or terminate an existing guardianship and appoint a public guardian, as applicable.



- C) The APS Investigator will comply with the guidance of DAIL Legal during the petition process.
- D) If an APS Investigator wishes to petition a court to appoint a public guardian or to move to modify or terminate a guardianship with a public guardian, but either OPG or DAIL Legal does not support that approach, the investigator may only proceed with the approval of the Commissioner.
  - 1) The APS Investigator will request an appeal of the OPG or DAIL Legal's decision to the Commissioner through their supervisor to the Assistant Director for APS.

## **XVI. Adult Protective Services Committee**

*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations. Effective Date: December 4, 2017.*

The objective of this section is to document policy pertaining to the APS Committee of the DAIL Advisory Board, to include purpose, membership, and file review.

## **1) Authority and Purpose**

- A) At the discretion of the Commissioner, the Department of Disabilities, Aging, and Independent Living (DAIL) Advisory Board shall have an Adult Protective Services (APS) Committee to advise the department on matters pertaining to APS.
- B) The APS Committee is advisory and will make recommendations on APS operations to the Commissioner, the Director of the Division of Licensing and Protection, and the APS Director.

## **2) Confidentiality**

- A) APS Committee meetings are open to the public and must comply with Vermont open meeting laws.
- B) There will be no discussion of specific APS reports or investigations during APS Committee meetings to ensure the confidentiality of the individuals involved and compliance with the confidentiality requirements of the APS statute.
  - I. If an APS Committee member has a concern regarding a specific APS report or investigation, they will bring their concerns directly to the APS Director.

### 3) Membership of APS Committee

- A) The committee shall have no fewer than three members.
- B) The committee shall consist of the following:
  - I. Upon the recommendation of the DAIL Advisory Board, the DAIL Advisory Board Chairperson will appoint no fewer than two board members to serve on the APS Committee.
    - 1. These members will have no terms or term limits separate from those of the DAIL Advisory Board.
- C) Other members selected by the Commissioner. The Commissioner will work to ensure the committee includes representation from individuals who have received APS services, relevant community partners, and other relevant governmental organizations.
  - I. The Commissioner may appoint individuals employed by organizations that have traditionally had an interest in APS, to include the Council of Vermont Elders, Disability Rights Vermont, Office of the Public Guardian, Vermont Center for

Independent Living, Vermont Legal Aid, a representative from the area agencies on aging, and a representative from the disability services agencies.

- II. These members will serve two-year terms and there will be no term limits.
- III. Individuals interested in serving on the APS Committee may apply at any time. Applications will be made through the APS Director. Final appointment decisions rest with the Commissioner.

#### **4) APS Committee Chairperson**

- A) Upon the recommendation of the DAIL Advisory Board, the DAIL Advisory Board Chairperson will appoint the APS Committee Chairperson, who will be a member of the DAIL Advisory Board.
- B) The APS Committee Chairperson will establish meeting agendas, will determine the frequency of meetings, and will serve as facilitator at meetings.
  - I. The Chairperson will designate another committee member to facilitate meetings when they are absent.
- C) APS staff will provide administrative support to the APS Committee

Chairperson for work in support of the APS Committee.

**5) Annual Public Forum**

- A) At the discretion of the Commissioner, the APS Committee will work with APS staff to hold a forum for the public to provide input on APS operations at least once per calendar year.
- B) The forum will be planned in such a manner to be accessible to individuals who have an interest in APS.
- C) The forum will be planned in such a manner to limit costs. The APS Assistant Director will submit a budget estimate for approval to the Commissioner.

**6) Policy Manual Review**

- A) At the discretion of the Commissioner, APS will seek feedback from the APS Committee on amendments, additions, or deletions to the APS Policy Manual.

## 7) File Review

- A) At the discretion of the Commissioner, APS will have some of its screening decisions and investigations reviewed as part of APS' continuous quality improvement plan.
- B) The Commissioner will select file reviewers and will determine the appropriate number of reviewers.
  - I. File reviewers will serve at the discretion of the Commissioner.
  - II. Individuals interested in serving as a file reviewer may apply at any time. Applications will be made through the APS Director. Final appointment decisions rest with the Commissioner.
- C) File reviewers will complete a confidentiality agreement.
- D) The Commissioner, APS staff, the APS Committee, and the file reviewers may recommend areas to review to the APS Director. If there is conflict that can not be resolved on areas to review, the Commissioner will determine what areas to review.
- E) APS staff will facilitate the file review process, to include training file reviewers on statute and policy; scheduling file reviews; consolidating file review data; and

delivering results to the APS Committee, if necessary.

- F) The number of reports and investigations to review and the methodology for selecting reports will be negotiated by the APS Director and the file reviewers. If there is conflict that can not be resolved, the Commissioner will determine the appropriate number to review and selection methodology.
- G) The Division of Licensing and Protection Director and the APS Committee Chairperson may develop guidelines for conducting reviews. If there is conflict that can not be resolved on the guidelines, the Commissioner will determine the appropriate guidelines.



*Notice – This policy has not yet been updated following changes to 33 V.S.A Chapter 69 (enacted July 1, 2023) and may not reflect current APS operations. Updated July 29, 2016.*

The objective of this section is to define commonly used terms used by Adult Protective Services throughout the APS Policy Manual.

## **Appendix A - Definitions**

### **I. Authority.**

- a. Definitions for Adult Protective Services (APS) are established in 33 V.S.A. §6902. It is the intention of the signers that the definitions laid out below are consistent with this statutory language. If there is conflict between this policy and statute, the statutory language will control.

## A) Definitions.

- 1) “Abuse” means:
  - a) Any treatment of a vulnerable adult which places life, health, or welfare in jeopardy or which is likely to result in impairment of health;
  - b) Any conduct committed with an intent or reckless disregard that such conduct is likely to cause unnecessary harm, unnecessary pain, or unnecessary suffering to a vulnerable adult;
  - c) Unnecessary or unlawful confinement or unnecessary or unlawful restraint of a vulnerable adult;
  - d) Any sexual activity with a vulnerable adult by a caregiver who volunteers for or is paid by a caregiving facility or program. This definition shall not apply to a consensual relationship between a vulnerable adult and a spouse or domestic partner, nor to a consensual relationship between a vulnerable adult and a caregiver hired, supervised, and directed by the vulnerable adult;
  - e) 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; or

- f) 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.

Note: A report of abuse cannot be substantiated absent evidence that the alleged perpetrator knew, or should have known, of the alleged victim's status as a vulnerable adult. In re Appeal of Tinker, 165 Vt. 621 (1996).

- 2) "Activities of Daily Living" means dressing and undressing, bathing, personal hygiene, bed mobility, toilet use, transferring, mobility in and around the home, and eating.
- 3) "Adult Abuse Registry" means a list, maintained by APS, of individuals who have been substantiated for or convicted of abusing, neglecting, or exploiting a vulnerable adult.
- 4) "Agency" means the Agency of Human Services, also referred to as "AHS."
- 5) "Alleged Perpetrator" means the individual alleged to have abused, neglected, or exploited the alleged victim, as reported. Also referred to as the "AP."

- 6) “Alleged Victim” means the individual who is alleged to have been abused, neglected, or exploited by the alleged perpetrator, as reported. Also referred to as the “AV.”
- 7) “Appeal” means:
  - a) The process through which the DAIL Commissioner, the Human Services Board, and/or the Vermont Supreme Court review a decision to recommend substantiation of, or to substantiate, an alleged perpetrator for abusing, neglecting, or exploiting a vulnerable adult.
- 8) “Assistant Director for Adult Protective Services” means the Division of Licensing and Protection assistant director responsible for the APS program.
- 9) “Care” means subsistence, medical services, custodial services, personal care services, mental health services, or rehabilitative services, and includes assistance with activities of daily living or instrumental activities of daily living.
- 10) “Caregiver” means a person, agency, facility, or other organization with responsibility for *providing* subsistence or medical or other care to an adult who is an elder or has a disability, who has assumed the responsibility voluntarily, by contract, or by an order of the Court; or a person

*providing* care, including medical care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care provided which is required because of another's age or disability.

- 11) "Closed Contact" means a report that has been received by APS that will not be investigated.
- 12) "Commissioner" means the Commissioner of the Department of Disabilities, Aging, and Independent Living or their designee.
- 13) "Department" means the Department of Disabilities, Aging, and Independent Living, also referred to as "DAIL."
- 14) "Decisional Capacity" means that an individual has the mental ability to make decisions for themselves without a guardian.
- 15) "Diligent Effort" means at least two documented attempts to perform a task, which could include contacting a reporter, locating a witness, etc.
- 16) "Director" means the Director of the Division of Licensing and Protection.
- 17) "Division" means the Division of Licensing and Protection, also referred to as "DLP."
- 18) "Exploitation" means:

- a) 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;
- b) 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;
- c) The act of forcing or compelling a vulnerable adult against their will to perform services for the profit or advantage of another; or
- d) Any sexual activity with a vulnerable adult when the vulnerable adult does not consent or when the actor 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 the actor has actual knowledge of vulnerable status.

Note: A report of exploitation cannot be substantiated absent evidence that the alleged perpetrator knew, or should have known, of the alleged victim's status as a vulnerable adult. In re Appeal of Tinker, 165 Vt. 621 (1996). This requirement,

however, does not apply to allegations under subsection d) above.

- 19) “Expungement” means the removal of an individual’s name from the Adult Abuse Registry.
- 20) “Extension” means an APS Intake Specialist or Investigator has been granted additional time to screen a report or complete an APS investigation.
- 21) “Failure-to-Report Investigation” means an investigation to determine if a mandatory reporter satisfied the mandatory reporting requirements.
- 22) “Failure-to-Report Penalties” means the administrative penalties imposed by the Commissioner of the Department of Disabilities, Aging, and Independent Living (DAIL), or, in cases in which the Commissioner or DAIL staff is alleged to have failed to report, by the AHS Secretary as authorized by 33 V.S.A. §6913(b), when it is determined that a mandatory reporter willfully violated the reporting requirements established in 33 V.S.A. §6903(a).
- 23) “Field Screen” means an extension of the screening process where an APS Investigator gathers additional information in order to determine if an investigation should be opened.

- 24) “Instrumental Activities of Daily Living” means meal preparation, medication management, phone use, money management, household maintenance, housekeeping, laundry, shopping, transportation, and care of adaptive equipment.
- 25) “Intake” means the act of gathering information from a reporter or other individuals with information pertaining to a report for the purpose of making a screening decision.
- 26) “Intent” means a person has a mental desire and will to act or not act in a particular way or cause a certain result or believes that it is substantially certain that their action or inaction will cause a certain result.
- 27) “Investigation” means an investigation conducted by an APS Investigator for the purpose of determining if a vulnerable adult was abused, neglected, or exploited and which complies with the requirements set forth in 33 V.S.A. § 6906(b).
- 28) “Investigative Summary” means the document that summarizes the investigation conducted by an APS Investigator, to include a recommendation for substantiation or unsubstantiation for the alleged perpetrator.



- 29) “Investigator” means an APS Investigator who investigates allegations of the abuse, neglect, or exploitation of a vulnerable adult.
- 30) “Lewd and Lascivious Conduct” means open and gross conduct which was lustful, indecent, or sexual behavior that offends current morality in Vermont, as determined by applying a sense of community standards of sexual decency, propriety and morality.
- 31) “Mandatory Reporter” means any of the following, other than a crisis worker acting pursuant to 12 V.S.A. §1614:
- a) All employees, contractors, and grantees of the Agency of Human Services who are involved in caregiving or are a caregiver, as defined in 33 V.S.A. §6902(2).
  - b) A physician, osteopath, chiropractor, physician assistant, nurse, medical examiner, licensed nursing assistant, emergency medical services personnel, dentist, or psychologist.
  - c) 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.

- d) A mental health professional, social worker, person or organization that offers, provides, or arranges for personal care for vulnerable adults; caregiver employed by a vulnerable adult; employee of or contractor involved in caregiving for a community mental health center; law enforcement officer; or individual who works regularly with vulnerable adults and who is an employee of an adult day care center, area agency on aging, senior center, or meal program designed primarily to serve vulnerable adults.
  - e) A hospital, nursing home, residential care home, home health agency, or any entity providing nursing, nursing-related or developmental disabilities services for remuneration; intermediate care facility for adults with developmental disabilities; therapeutic community residence, group home, developmental home, school or contractor involved in caregiving; or an operator or employee of any of these facilities or agencies.
- 32) “Neglect” means purposeful or reckless failure or omission by a caregiver to:
- a) Provide care or arrange for goods or services necessary to maintain the

- health or safety of a vulnerable adult, including food, clothing, medicine, shelter, supervision, and medical services, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or their representative, or an advance directive, as defined in 18 V.S.A. §9701;
- b) Make a reasonable effort, in accordance with the authority granted the caregiver, to protect a vulnerable adult from abuse, neglect, or exploitation by others;
  - c) 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 their representative, or advance directive, as defined in 18 V.S.A. §9701; or
  - d) 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.

Note: A report of neglect cannot be substantiated absent evidence that the alleged perpetrator knew, or should have known, of the alleged victim's status as a vulnerable adult. In re Appeal of Tinker, 165 Vt. 621 (1996).

Note: When considering the definition of neglect, neglect:

- May include a mandatory reporter's willful failure to report when they know of or have received information about or reasonably suspect abuse, neglect, or exploitation of a vulnerable adult, but only when the mandatory reporter is also a caregiver.
- May be repeated conduct or a single incident which has resulted in or could be expected to result in physical or psychological harm, as a result of a), b), c) or d) of this subdivision.

Note: When considering substantiation for neglect:

- The APS Investigator will consider whether the alleged perpetrator was acting in their role as caregiver of the vulnerable adult at the time of the alleged misconduct. Caregivers who assist vulnerable adults with supported

decision making, where the vulnerable adult has the authority to make a decision about their actions or inactions, will not be considered to have acted purposefully or recklessly if the vulnerable adult ignores the advice of the caregiver.

- 33) “Open and Gross” means conduct that is committed within the view of at least one non-consenting member of the public, such as acts committed in a public place, or acts committed openly in the presence of a victim or without the victim’s consent, whether or not the acts were done in a public place.
- 34) “Program Chief” see “Assistant Director for Adult Protective Services.”
- 35) “Program Specialist” means the staff member responsible for receiving and processing reports made to APS.
- 36) “Protective Services” means actions taken to safeguard a vulnerable adult to prevent future abuse, neglect, or exploitation.
- 37) “Purposeful” means it is a person’s intent or desire to engage in or refrain from engaging in specific conduct to cause or bring about specific harm.
- 38) “Reasonable Effort” includes those actions that an ordinary person in the same or similar circumstances would take, in accordance with his authority, to

protect a vulnerable adult from abuse, neglect, or exploitation.

- 39) “Reasonably Suspect” means that an ordinary person under the same or similar circumstances would be of the opinion that a vulnerable adult may have been abused, neglected, or exploited.
- 40) “Reckless” means acting without regard to the probable or possible injurious consequences of their actions, or, foreseeing such consequences, consciously ignoring a known, substantial and unjustifiable risk that their conduct would cause that result. To be reckless, the person’s disregard of the risk, when considered in light of the nature and purpose of their conduct, and the circumstances known to them, must have been a gross deviation from how a law-abiding person would have acted in the same situation.
- 41) “Received Information” means to be given or to be provided with information alleging abuse, neglect or exploitation of a vulnerable adult. For purposes of mandatory reporting, a DAIL employee is not required to make an APS report when they are provided with a Critical Incident Report that explicitly states that a report has been made to APS regarding the information contained therein.

- 42) “Recommendation for Substantiation” means that an investigation has been conducted and that the APS Investigator has concluded that accurate and reliable information discovered in the course of the investigation would lead a reasonable person to believe that the alleged perpetrator abused, neglected, or exploited the vulnerable adult.
- 43) “Referral” means that APS staff has either forwarded information to another service provider to assist a vulnerable adult or has recommended to the vulnerable adult or reporter that they seek services from another service provider. A referral is not a deferral, meaning that APS is still bound to meet its statutory obligation to investigate allegations of the abuse, neglect, and exploitation of vulnerable adults even if they make referrals to other organizations.
- 44) “Report” means the statements provided to APS from a Reporter alleging that a vulnerable adult has been abused, neglected, or exploited. This is not the same “report” described at 33 V.S.A. §6906(c); that “report” is the “Investigative Summary” described above.
- 45) “Reporter” means the person or persons who has submitted a report to APS.

- 46) “Resident-to-Resident” means that both the alleged victim and the alleged perpetrator in the allegations are residents or patients of the same facility. Sometimes referred to as “Res-to-Res” or “R2R.”
- 47) “Screening Decision” means a decision, based on information received during the intake process, to open an APS investigation, assign a field screen, or not open an APS investigation. “Screened in” refers to opening a report for investigation, and “screened out” refers to a conclusion that a report does not rise to a statutory level warranting investigation.
- 48) “Self Neglect” means failure of a person to satisfy their own basic needs, and to protect themselves from harm, including provision of food, shelter, clothing, health care, and/or management of finances. APS does not have statutory authority to investigate allegations of self neglect.
- 49) “Sexual Activity” means a sexual act as defined in 13 V.S.A. §3251, other than appropriate medical care or personal hygiene, or lewd and lascivious conduct.
- 50) “Services and Protection Summary” means a document that describes the services and protections put in place to assist a vulnerable adult during the course of an APS investigation.



- 51) “Substantiated” means that a Recommendation for Substantiation has been accepted, either because the Alleged Perpetrator did not appeal the recommendation or because their appeal or appeals were denied.
- 52) “Survey and Certification” means the State Survey Agency responsible for licensing and surveying healthcare organizations which, like APS, is housed within DLP.
- 53) “Unsubstantiated” means that an investigation has been conducted and the APS Investigator has concluded there is a lack of accurate and reliable information to lead a reasonable person to believe that the alleged perpetrator abused, neglected, or exploited the vulnerable adult.
- 54) “Vulnerable adult” means any person 18 years of age or older who meets at least one of the following conditions.
  - a) Is a resident of a facility required to be licensed under 33 V.S.A. Chapter 71.
  - b) Is a resident of a psychiatric hospital or a psychiatric unit of a hospital.
  - c) Has been receiving personal care services for more than one month from a home health agency certified by the Vermont Department of Health or from a person or organization that offers, provides, or arranges for personal care.

- d) Regardless of residence or whether any type of service is received, is impaired due to brain damage, infirmities of aging, mental condition, or physical, psychiatric, or developmental disability:
    - i. That results in some impairment of the individual's ability to provide for their own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances; or
    - ii. Because of the disability or infirmity, the individual has an impaired ability to protect themselves from abuse, neglect, or exploitation.
- 55) "Willfully" means a person intentionally or knowingly acts or declines to act, or acts on purpose, and not inadvertently, or because of mistake, or by accident. A person does not act "willfully" if the person acts as a result of a good faith misunderstanding of the requirements of the law.
- 56) "Written Coordinated Treatment Plan" means a Services and Protections Summary.

## **6 APS Protocols**

APS Protocols are procedural guidance for the day-to-day operations of APS in Vermont. Because operating platforms and requirements can change frequently, it is important to adhere to the most current protocol. The following protocols were current and active as of January 1, 2017. For any protocols that have been amended following that date, disregard those included herein and refer to the latest signed and active protocol(s).

## 6.1 Protocol #1: APS Investigator Safety

*Updated October 12, 2022.*

The objective of this protocol is to provide APS investigators with good practices for general safety which they shall routinely follow when going into the field.

### I. **Buddy System.**

A) APS Investigators will use a buddy system for any visits to private residences or when they will be alone with individuals to be interviewed.

I. Interviews conducted in well-traveled public locations, to include licensed facilities, are not required to use the buddy system in this section unless the investigator prefers it.

B) APS Field Supervisors will establish which investigators will be paired as buddies.

I. If an investigator's safety buddy is not available, the

field supervisor will be their buddy. If the field supervisor is not available, an Intake Specialist or the Intake & Services Coordinator can act as a buddy.

C) Investigators shall send an “In” text to their safety buddy and supervisor prior to visiting a private residence. An email or landline call may suffice only when cell service is not available.

I. The text to the safety buddy will include the full address of the home and the estimated time the visit will be complete. It may also include the case number.

1. The time will be reported (e.g., 2:30 p.m.) and not the anticipated duration (2 hours).

II. The investigator will not enter the home without sending an “In” text (or email or phone call when cell service is not available) to their safety buddy and

supervisor. If the investigator is at a location with no cellular service, the investigator must travel to a location with cell service to send the “In” text.

1. The text will include the full address of the home, the estimated time in at the address, and the estimated time the visit will be complete.
  - a. The time will be reported (e.g., 2:30 p.m.) and not the anticipated travel time from the location of service to the address being visited (20 minutes).

III. If the investigator needs more time than stated in the “In” text, they will send a text to their safety buddy and supervisor with a new estimated time the visit will be complete.

1. It is incumbent upon the investigator to exit the location of the visit at the stated time C)1. Above if

there is no cellular service at the location.

D) If the investigator needs immediate assistance, they will text “Help” to their safety buddy and supervisor. The safety buddy will immediately contact 911.

I. The safety buddy will notify 911 that an APS Investigator is in the field and has reported an unidentified emergency.

II. The safety buddy will provide 911 details about the location of the investigator and any information that may be necessary to respond to a request for assistance.

III. The safety buddy will notify their supervisor that the investigator is in an emergency situation after contacting 911.

IV. The safety buddy will provide the supervisor with the name of the agency that is responding and estimated response time of the responding agency.

- E) When the investigator has safely completed the visit, they will send an “Out” text to their safety buddy and supervisor that says “Out”.
- F) If the investigator does not send an “Out” text to their safety buddy and supervisor by the scheduled time, the investigator’s safety buddy will attempt to contact them.
  - I. If the safety buddy is not able to contact the investigator, the safety buddy will immediately contact 911.
  - II. The safety buddy will notify 911 that an APS Investigator is in the field, has not responded to attempts to contact them, and is overdue.
  - III. The safety buddy will provide 911 details about the location of the investigator and any information that may be necessary to respond to a request for assistance.
  - IV. The safety buddy will notify their supervisor that the investigator is overdue



after contacting 911. The supervisor will ensure the full chain of command up to the Division of Licensing and Protection (DLP) Director is notified.

## II. Background Research

- A) Investigators will not conduct an in-person interview without first running a Vermont Case Access System (VCAS) on the individual to be interviewed or contacting local law enforcement to request information on any known hazards with the individual or a particular residence.
- B) If a VCAS or law enforcement check returns information that may affect the safety of the investigator, the investigator may contact their supervisor to discuss appropriate precautions.

### **III. Reporting Suspicious Persons and Safety Threats**

- A) If you feel your personal safety is threatened by a suspicious person-of interest, call law enforcement/911.
- B) All suspicious persons and incidents should be reported on the Safety & Security Incident Report (SSIR) website: <https://bgs.vermont.gov/security/incident>, without delay. Once the SSIR is received, a staff member from BGS Safety & Security will contact the writer/complainant if there are any questions to be asked.
- C) Follow heightened personal security precautions while a security threat is elevated (e.g., draw curtains at your home office, survey your environment before exiting your car, etc.).

### **IV. Optional Use of Outlook Calendar**

- A) Although not required, APS management encourages all investigators to share information

regarding their intended location on their Outlook Calendar.

- B) APS management recommends:
  - I. Investigators share their calendar (with details) with their supervisor, safety buddy, and any other staff members the investigator would like to have easy access to information about their location.
    - 1. Calendar items can be marked private with shared calendars so that personal meetings are not visible to others.
  - I. Investigators include on their calendar their anticipated location and the cases they will be working on as part of the title share their calendar with their supervisor and safety buddy.

## **6.2 Protocol #2: Field Screens**

Field Screens have been subsumed by Assessments.

## 6.3 Protocol #3: Report Processing Roles and Investigation Assignment

*Updated February 11, 2019*

This protocol describes the distribution of responsibility for processing reports and the process of assigning investigations.

### I) Staff Categorizations

- A) The following positions are hereby considered Field Staff for the purpose of this protocol:
  - 1) APS Investigators
  - 2) APS Service Navigators
  - 3) APS Field Supervisors.
- B) The following positions are hereby considered Intake Staff for the purpose of this protocol:
  - 1) DLP Program Specialists.
  - 2) APS Assistant Director .
  - 3) Division Director and APS Director, as necessary as described in V below.

- 4) Field Staff, but only in response to V below or when circumstances prevent a Field Staff member from performing investigative work and they are subsequently and temporarily assigned to Intake Staff by the APS Director.
  - (a) Field Staff will be trained by the APS Assistant Director prior to fulfilling this role.
- C) The following positions are hereby considered Screening Review Staff for the purpose of this protocol:
  - 1) APS Assistant Director.
  - 2) Division Director and APS Director.
  - 3) Field staff when temporarily assigned and trained by the APS Assistant Director.

## **II) Role of Intake Staff**

- A) The role of Intake Staff is to:
  - 1) Gather information from the report and individuals identified in the report, as appropriate.
    - (a) Intake Staff will focus on collecting information listed in APS Policy Manual Section IV regarding the criteria for screening decisions, although any information relevant for an investigation will be preserved.

- (b) Intake Staff will also gather information that may be relevant for the screening decision from previous reports and investigations.
  - (c) The purpose of Intake Staff gathering information is to provide Screening Review Staff with the necessary information to evaluate the screening decision.
- 2) Organize the information gathered for the review of Screening Review Staff, to include a screening recommendation
  - 3) Process reports in accordance with the screening decision, to include but not limited to notifications, as appropriate.

### **III) Role of Screening Review Staff**

- A) The role of Screening staff is to:
  - 1) Review the information gathered and packaged by Intake Staff.
  - 2) Gather additional information to make a screening decision, as necessary.
  - 3) Ensure the screening recommendation is in accordance with APS Policy Manual Section IV.
  - 4) Determine the priority level of the investigation or assessment in accordance with APS Policy Manual

Section IV for reports screened in for investigation.

- 5) Notify Intake Staff of the screening decision.
  - 6) Assign the field work as laid out in VI below for reports screened in for investigation or assessment.
- B) The APS Assistant Director will establish instructions for Screening Review Staff to follow in the performance of these duties.
- C) Only the staff members listed above at D)C) may finalize screening decisions.

#### **IV) Role of Field Staff with Intake and Screening**

- A) There is no expectation that Field Staff will monitor the report queue.
- 1) Field Staff are not prohibited from monitoring the report queue.
  - 2) If Field Staff voluntarily monitor the report queue, and they wish to provide input on a report received, Field Staff will email AHS-DAIL DLP Intake. This input will then be included, if appropriate, as part of the package for Screening Review Staff to consider.
  - 3) Field Staff will not begin field work until it has been assigned to them as described below.



- B) Field Staff will respond to queries from Intake and Screening Review Staff to facilitate the processing of reports, especially when the individuals involved in the report have had a previous APS assignment.
- C) There is no expectation that Field Staff will address complaints/concerns from the public regarding the processing of reports by Intake and Screening Review Staff.
  - 1) When Field Staff receive a complaint/concern regarding the processing of reports, they will forward the complaint/concern to the APS Assistant Director , who will respond to the individual, as appropriate.
- D) Field Staff will not enter information directly into the Intake portion of the APS IMS for intakes and will not change screening decisions.
  - 1) If Field Staff has information relevant to a report, they will send the information as described above in A)2).
  - 2) Field Staff will follow VII below regarding screening appeals if they disagree with a screening decision.
    - (a) If a screening decision is reversed, Intake and Screening Review Staff will amend the report in the APS IMS, as appropriate.

## **V) Contingency Planning for Processing Reports**

- A) When APS as a whole has 10 or more reports out of compliance with Policy Manual Section IV in regard to the timeliness of processing reports, the APS Assistant Director will initiate the following contingency plan:
- 1) The APS Assistant Director will notify the Division Director and APS Director.
  - 2) The Division Director and APS Director will immediately coordinate their calendars to provide a total of 8 hours per day of direct support to the intake and screening function.
  - 3) The Division Director and APS Director will continue to provide this level of support until APS as a whole is fully compliant.
  - 4) If APS as a whole is still out of compliance after 5 business days, the Assistant Director may temporarily assign Field Staff to augment Intake Staff until APS as a whole is fully compliant.
  - 5) If APS as a whole is still out of compliance after 5 business days, the Division Director will notify the Commissioner.

## VI) Investigation Assignment

- A) When a report is screened in for investigation or assessment, it will be assigned to the appropriate APS Field Supervisor according to the current county designations.
- B) The APS Field Supervisors will be responsible for identifying coverage for assigning investigations as specified in B) below. APS Field Supervisor will determine which APS Field Staff to assign the case to based on a variety of factors, to include but not limited to current caseloads, geography, and the nature of the assignment.
  - 1) The APS Field Supervisor will only assign cases to themselves for any of the following reasons:
    - (a) They have determined that no other field staff in their region can reasonably take the case based on a variety of factors, to include but not limited to caseload and geography.
    - (b) There is a specific reason they are uniquely qualified to complete the case.
    - (c) In the normal rotation of assignments.

- (d) They have been directed to take the case by the APS Director.

## **VII) Screening Appeal**

- A) If the APS Field Supervisor believes that an investigation was screened in erroneously, they may contact the APS Assistant Director to discuss the screening decision. If the field supervisor and the Assistant Director cannot come to agreement the field supervisor can appeal the screening decision to the APS Director, and the APS Director will make a final screening decision.
  - 1) The appeal will be submitted via email to the APS Director by either the field supervisor or the Assistant Director. At a minimum, the field supervisor will include the following:
    - (a) If the field supervisor disagrees that the alleged victim is a vulnerable adult, the field supervisor will describe with specific information what makes the alleged victim not a vulnerable adult.
    - (b) If the field supervisor disagrees that the allegations meet the statutory definition of abuse, neglect, or exploitation, the field supervisor will describe with specific information what makes the

allegations not meet the statutory definition.

- (c) If the field supervisor believes that the screening decision contradicts statute, policy, or protocol, the field supervisor will describe with specific information how the screening decision contradicts statute, policy, or protocol.
  - (d) If the field supervisor believes that the allegations have already been investigated, the field supervisor will describe the previous investigation and compare the specific allegations between the new and previous investigation.
- B) When a decision is reversed the intake staff will send out a corrected notice to the reporter. If the APS Field Supervisor believes that an investigation should be assigned to the other team, they will first negotiate with the other APS Field Supervisor, who may choose to accept the assignment for their team.
- 1) If the investigation is not assigned to the other team, the APS Field Supervisor may notify the APS Director that they disagree with the assignment, and the APS Director will determine which team will complete the investigation.

### **VIII) Assignment Monitoring Responsibilities**

- A) It is the responsibility of the APS Field Supervisor to ensure an equitable distribution of assignments to their field staff.
- B) It is the responsibility of the APS Director to ensure an equitable distribution of investigations to each team.
  - 1) The APS Director will amend I)A) as necessary to ensure an equitable distribution to each team.

### **IX) Face to Face Deadlines**

- A) It is the responsibility of the APS Field Supervisor to ensure that cases are assigned in a timely manner to ensure that required face-to-face meetings are conducted by the timelines established in APS Policy Manual Section IV.
  - 1) Screener will notify the APS Director of all reports that are assigned as Level 1 when assigning to the appropriate APS Field Supervisor.

## 6.4 Protocol #4: Direct Contact and Face-to-Face Contact

*Updated Oct 1, 2019.*

This protocol establishes timeframes and guidelines for investigator contact with reporters and alleged victims.

### I) Timeliness of Contacts Based on Triage Level

- A) The triage level assigned during the initial intake process shall determine the mandatory time requirements that field staff must follow in reference to making “Direct Contact” with the alleged victim or reporter and conducting the mandated “Face-to-Face Contact” with alleged victim.
  - 1) Priority 1.
    - (a) Field Staff shall make a diligent effort to make face-to-face meeting within 24 (24) hours of assignment unless such contact would jeopardize the health, welfare or safety of the alleged victim or the alleged victim objects to the interview.

- 2) Priority 2.
  - (a) Field Staff shall also make a diligent effort to conduct an in person (face-to-face contact) with the alleged victim with two (2) business days of assignment, unless such contact would jeopardize the health, welfare or safety of the alleged victim or the alleged victim objects to the interview.
  
- 3) Priority 3.
  - (a) Field Staff shall make a diligent effort to make direct contact with the alleged victim or reporter within five (5) business days of assignment.
  - (b) Field Staff shall also make a diligent effort to conduct an in person (face-to-face contact) with the alleged victim with ten (10) business days of assignment, unless such contact would jeopardize the health, welfare or safety of the alleged victim or the alleged victim objects to the interview.



## **II) Direct Contact and Face-to-Face Contact**

- A) Direct contact may include a face-to-face interview, telephone conversation, email, exchange of voicemail, or letter.
- B) Field Staff are also required to make a diligent effort to make an in-person face-to-face contact with the alleged victim to assure their safety and well-being.
  - 1) If face to face contact with the victim is not possible due to illness, because contact could jeopardize their health or well-being, or for another valid reason, Field staff will contact a person who represents the victim's interest (e.g. a trusted friend, family member, medical personnel, guardian, case manager, social worker, mental health clinician, etc.) for the purpose of assessing immediate safety.

## **III) Documentation**

- A) All direct and face-to-face contacts must be documented within the APS IMS.
  - 1) The date and outcome of the face-to-face contact shall be indicated on the investigation main page.

- 2) Any narrative necessary including if safety was not determined shall be documented in a note.

## 6.5 Protocol #5: Incoming Correspondence

*Updated January 24, 2018.*

This protocol describes the process by which APS receives and processes incoming mail, faxes, email, and website inquiries.

### I) Electronic Correspondence

- A) Written electronic correspondences originates from several sources, including entries into the website contact form, faxes, and emails addressed to [ahs.dail.dlpintake@vermont.gov](mailto:ahs.dail.dlpintake@vermont.gov) or [aps@vermont.gov](mailto:aps@vermont.gov).
- B) All electronic correspondence mentioned above is delivered to the [ahs.dail.dlpintake@vermont.gov](mailto:ahs.dail.dlpintake@vermont.gov) email box, which is monitored by APS Intake Staff.
- C) Incoming correspondence will be reviewed by Intake Staff, and reports to APS will be entered into the APS IMS.
  - 1) Other correspondence will be resolved as appropriate or routed to the relevant staff person for resolution.
  - 2) Correspondence addressed to a particular staff person will be

forwarded via email to the staff person addressed, or to their supervisor in the event the staff member addressed is known to be not available.

- D) Once an item is resolved or forwarded, the item will be moved to the “Critical Incident Report (CIR) folder” if it is a CIR, the “Processed faxes” folder if it is a fax, or the “Archived Emails” folder if it is any other item.

## II) Mailed Correspondence

- A) Mailed correspondence will be processed by the APS Senior Planning Coordinator or supporting administrative staff, with Intake Staff as backup.
- B) All incoming mail will be opened and date stamped.
- C) Mail that appears to be a report to APS will be scanned and sent to the [ahs.dail.dlpintake@vermont.gov](mailto:ahs.dail.dlpintake@vermont.gov) email box for processing by Intake Staff.
- D) Mail addressed to Field Staff will be scanned and emailed to the relevant staff person.
  - 1) Once scanned the hardcopy will be held at Central Office (CO) for distribution at the next staff meeting.
- E) Mail not specifically addressed will be routed as determined appropriate by

administrative staff. This may involve scanning the item to Intake or Field Staff (see II-D above) or by physically routing the item to the appropriate Central Office Staff.

### **III) Returned mail**

- A) Returned mail will be routed to the sending staff person.
  - 1) If the returned mail is for Field Staff, it will be scanned and emailed to the relevant staff and the hardcopy will be held at CO for distribution at the next staff meeting.

**6.6 Protocol #6: Investigation  
Extensions and Exceptions:  
Authority, Ability, and Limiting  
Investigations to Protect Alleged  
Victims**

*Updated March 16, 2023*

This protocol describes the process by which investigators will verify APS' authority and ability to investigate and how Investigation Exceptions are used to discontinue investigations when their scope is outside APS' authority. This protocol establishes requirements for exceptions to standard investigative process and the process by which investigators will request exceptions.

**I) Relevant Statutory Provisions**

- A) 33 VSA §6904 authorizes APS to investigate reports pursuant to alleged abuse, neglect or exploitation of a vulnerable adult wherein:
- 1) 33 VSA §6902 (14) provides APS the definition of a vulnerable adult, and
  - 2) 33 VSA §6902 (1), (6) or (7) provides APS the definition of abuse, neglect, or exploitation.

- B) 33 VSA §6906(a)(1)(A) requires APS provide notification after a decision not to investigate a report.

## **II) Investigation Exceptions**

- 1) There are several exceptions to the standard order of an investigation. They generally fall into three categories:
  - a) APS needs more time to investigate
  - b) Investigating poses too great of a risk of harm to an AV
  - c) APS lacks the authority to investigate
  - d) APS lacks the ability to investigate
- 2) While the approval process is the same for all the exceptions, each exception has its own requirements which must be documented with the request.

## **III) Investigation Due Date Extensions**

- 1) In certain circumstances, it may not be possible to complete an investigation within the timelines established in Protocol 6, in which case the granting of an extension may be appropriate.
- 2) The primary purpose of an extension is to give the investigator additional time to reach the appropriate conclusion for their investigation and/or to properly document that conclusion.

- 3) The APS Director may approve an extension request for investigative field work under the following circumstances:
  - a) One or more individuals who are critical to the investigation are temporarily unavailable and reasonably expected to be available within 180 days.
  - b) The investigator has requested and is waiting for records critical to completing a comprehensive investigation.
  - c) The investigation is a complex investigation that requires additional time to complete a comprehensive investigation.
  - d) The investigation is connected to other investigations involving multiple alleged victims and/or alleged perpetrators and requires additional time to complete all investigation components.
  - e) There is an ongoing and related investigation by another investigative body, and it is in the best interest of the alleged victim or to protect potential victims to delay the APS investigation.
  - f) The existence of investigation by another investigative body alone is not justification for an extension.



- g) The scheduling of a judicial proceeding relevant to the APS investigation extends beyond the required timeline for closure.
  - h) The existence of a judicial proceeding alone is not justification for an extension.
  - i) The investigation requires management and/or legal review before field work can conclude.
  - j) Medical leave of the assigned investigator of more than 5 business days, provided the investigator is anticipated to return to work and the APS Director determines it shall be less disruptive to the alleged victim for the investigation to continue with the same investigator.
- 4) The APS Director may approve an extension request to complete the required summaries under the following circumstances:
- a) The investigation is connected to other investigations involving multiple alleged victims and/or alleged perpetrators and requires additional time to complete all relevant summaries.
  - b) Either of the required summaries requires management and/or legal

review before a conclusion can be reached.

- c) Medical leave of the assigned investigator of more than 5 business days, provided the investigator is anticipated to return to work.
- 5) The DLP Director may approve extension requests that are not listed in 3) and 4) above.
- 6) When granting a request for an extension, the APS Director or the DLP Director shall establish a new deadline for investigation completion.
- 7) If an investigator needs an additional extension, they will follow the same process for each subsequent extension request.
- 8) Extension request requirements:
  - a) The investigator will submit investigation extensions a minimum of 3 business days prior to the investigation Due Date.
  - b) The investigator shall include a description of why the extension is required.
- 1) When an investigation is extended, the APS Director or DLP Director shall make the following changes in the IMS:
  - a) Will assign a new Investigation Due Date.

- b) Will include any special instructions for the extension in the Extension Request Comments.

#### **IV) Limiting or Modifying Investigations to Protect the Alleged Victim**

- 1) If during an investigation an investigator feels—based on their own assessment, not the AV’s opinion— that the investigation is creating emotional harm to the alleged victim, the investigator may request to limit the investigation or to deviate from standard APS practices, such as but not limited to notifications, for the purpose of limiting the alleged victim’s emotional harm.
- 2) The request will include:
  - a) What the investigator has observed that demonstrates APS investigation efforts may potentially harm the AV.
  - b) Likelihood that the investigation will result in an unsubstantiation.
  - c) What aspects of the investigation should be curtailed or changed to better protect the AV.
  - d) Likelihood that the AP is aware of and/or has continued ability to maltreat the AV.
  - e) Likelihood that the AP is employed in a role with ongoing access to vulnerable adults.

- 3) A full Investigative Summary Report will be completed by the investigator.
- 4) Excluding the Alleged Perpetrator in the Investigation and Notification Processes
  - a) If the AP's involvement is limited as specified in Part III above, then the decision to forego providing the alleged perpetrator an opportunity to interview and providing them notification is at the discretion of the investigator.
  - b) The investigator must forego both an opportunity to interview and notification.
  - c) When the alleged perpetrator is not provided an opportunity for an interview and they will not receive notification at the conclusion of the investigation, the investigator will:
  - d) Document how the AP will likely not have continued access or ability to maltreat the AV in Part 5 of the Investigation Summary.
  - e) This documentation will only state that the alleged perpetrator was not included in the investigation in accordance with APS Protocol 6. The investigator will not document the reasons the alleged perpetrator was not included.

- 5) Under no circumstances should the investigator make any guarantees to the alleged victim regarding contact with the alleged perpetrator.
- 6) If any of the conditions in 2) above are no longer met before the completion of the investigation, the investigator must offer the alleged perpetrator an opportunity to interview and send them notice at the conclusion of the investigation.
- 7) If the alleged perpetrator contacts APS after the investigation concludes to inquire about the investigation, APS central office staff will send them notice of the investigation, to include a copy of the Investigative Summary, if requested.

**V) Discontinuing Investigations and Assessments for Lack of Authority to Continue**

- 1) APS acknowledges that reports may be screened in with imperfect information provided by reporters. Subsequently, cases may commence with imperfect information and an investigator may determine during the investigation that details provided in a report may have been mischaracterized, incomplete, or inaccurate. In these instances, if the reported details in question were the basis

for statutory authority to investigate, the investigator must reassess APS' authority to investigate.

- 2) Investigators that suspect they may *not* have the authority to continue an investigation must document and provide to their supervisor the following:
  - i. Verification that a face-to-face meeting with the alleged victim was completed, and when.
  - ii. Information about the Alleged Victim's vulnerability status provided either in a report to APS or in the course of the investigation that has, or has not, changed.
  - iii. For investigations, information about the allegations of abuse, neglect, or exploitation provided either in a report to APS or in the course of the investigation that has, or has not, changed.
  - iv. How new information may preclude APS' authority to continue the case because either, a) the alleged victim is not a vulnerable adult; and/or b) the allegations of maltreatment do not meet the definition or Vermont Supreme Court interpretation of abuse, neglect, or exploitation.

- v. For investigations, the likelihood that the alleged perpetrator is aware of the investigation.
  - vi. If the AV is determined to be vulnerable, the investigator should complete a Services and Protections Summary Report for the AV.
- 3) Field Supervisors will review investigator's documented evidence in B) above, and if they agree with the assessment will forward the request to the APS Director with their assent indicated.
    - a) If the Field Supervisor recommends discontinuation of the investigation, they will also include a recommendation regarding what participants should receive notice.
  - 4) The APS Director after reviewing the Field Supervisor's recommendation may discontinue an investigation or request further action to determine APS' authority to investigate.
  - 5) The director will provide a response to the supervisor and investigator via email.
  - 6) If the investigation is discontinued, the APS Director may determine which participants should or should not receive notice.

## **VI. Discontinuing Investigation for Lack of Ability to Investigate**

- 1) Some incidents lack an investigative path forward absent the participation of the AV. In those instances, APS will terminate the investigation to avoid unnecessary disruption to the AV.
- 2) Investigators that believe they may *not* have the ability to carry an investigation forward must document and provide to their supervisor the following:
  - i. Verification that contact with the reporter was made, and when.
  - ii. Verification that a face-to-face meeting with the alleged victim was completed, and when.
  - iii. If face-to-face was not completed, the attempt should be described.
  - iv. Verification that the AV has declined or lacks the ability to participate in the investigation.
  - v. Verification that no witnesses to the incident have been identified which have not yet been interviewed.
  - vi. Additionally, verification that no evidence which would provide an investigatory path has been identified.



- vii. If the AV is determined to be vulnerable, the investigator should complete a Services and Protections Summary for the AV or note the declination.
- 1) Field Supervisors will review investigator's documented evidence in b) above, and if they agree with the assessment will forward the request to the APS Director with their assent indicated.
  - a. If the Field Supervisor recommends discontinuation of the investigation, they will also include a recommendation regarding what participants should receive notice.
- 2) The APS Director after reviewing the Field Supervisor's recommendation may discontinue an investigation or request further action to determine APS' authority to investigate.
  - a. The director will provide a response to the supervisor and investigator via email.
  - b. If the investigation is discontinued, the APS Director may determine which participants should or should not receive notice.

## 1) Exception Routing

- a) The general process for requesting investigation exceptions is the same for all exception types.
- b) The investigator will prepare a request with the specific information applicable to the type of exception being requested.
- c) The request will be routed to the Investigator's supervisor for review. If the supervisor is in agreement and the request is in order, the Supervisor will forward the request to the APS director for consideration.
- d) The APS Director will upload the decision chain as a note in the corresponding investigation within the IMS if the case is terminating or return the chain to the Investigator for documentation if the case is ongoing.
- e) The director's decision will be available for review by the Department or in connection with any file review process.
- f) If closing the case:
  - i. The APS Director will complete the investigation in the IMS by changing the investigation status to "Complete," the determination to "Admin Closure – Investigation

- Discontinued,” and entering a completion date and time.
- ii. The APS Assistant Director, or their delegate, will provide notifications that the investigation was discontinued.
  - iii. The alleged victim will be notified that the investigation was discontinued and there will be no further action by APS.
  - iv. The reporter(s) will be notified that the investigation was discontinued, there will be no further action by APS, and the Reporter(s) can make a request to the commissioner for a review.

If the APS Director determined that the alleged perpetrator should be notified, the alleged perpetrator will be notified that the investigation was discontinued and there will be no further action by APS.

**6.7 Protocol #7: APS Investigations  
of Sworn Law Enforcement  
Personnel**

*Updated March 19, 2019.*

The following procedures will be followed when APS receives a report alleging that a law enforcement officer, while serving in their official capacity, abused, neglected, or exploited a vulnerable adult.

**I) Removed**

## **6.8 Protocol #8: Distribution and Redaction of Investigative Summaries and Records**

*Updated Oct 30, 2023*

The following guidance determines what information is to be redacted when distributing Investigative Summaries.

### **I) Sharing of Information Necessary to conduct APS Activities**

- A) Sharing of information necessary to conduct investigations, assessments, protective services, and referrals is permitted to the extent necessary to accomplish the intended purpose.

### **II) Normal Distribution of Completed Investigative Summaries**

- A) The alleged victim and/or their representative is allowed a copy of the Investigative Summary after its completion and upon request.
- B) When the investigation is unsubstantiated, the alleged perpetrator and/or their representative is allowed a copy of the Investigative Summary after its completion and upon request.

- C) When the investigation is recommended for substantiation, the alleged perpetrator and/or their representative will be provided a copy of the Investigative Summary after its completion.
  - 1) Vermont statute requires the alleged perpetrator to be provided with the evidence used to recommend substantiation. The evidence will be provided upon review request.
  - 2) The Investigative Summary will be provided with the first letter to the alleged perpetrator notifying them of the recommendation of substantiation.
- D) Except as noted below, a copy of the Investigative Summary will not be provided to the representative of the alleged victim or alleged perpetrator without documentation identifying their role as representative.
  - 1) If the Investigative Summary identifies an individual as the representative of the alleged victim or alleged perpetrator, no additional documentation is required.
  - 2) If the representative of the alleged victim is a guardian with the Office of Public Guardian within DAIL, APS will accept a verbal statement as documentation that the guardian is the alleged victim's representative.

- E) Statute requires notification of alleged perpetrator in cases recommending substantiation to be provided via certified mail.

### **III) Distribution of Investigation Records within DAIL**

- A) The Investigative Summary and all investigation records will be provided, upon request, to the DAIL Commissioner, DAIL Legal Section, or their designates.
  - 1) The Investigative Summary will be delivered in whatever format requested.
- B) Employees of other DAIL programs designated by the Commissioner may receive the investigative summary in cases where the investigation found information which has implications for the particular program.

### **IV) Distribution of Information and Investigative Records Not Requiring Approval**

- A) APS Policy Manual Section IV allows APS staff to release sufficient information as necessary to conduct investigations, make

referrals and to request protective services. APS staff do not need approval to release information necessary to conduct the investigation, in support of a referral or request for protective services.

- B) In accordance with 33 VSA §6911(a)(1), APS staff may release information and investigative records obtained through reports and investigations to the following at their request without additional approvals:
- 1) The alleged victim or their representative.
  - 2) A law enforcement agency.
  - 3) A State's Attorney or the Attorney General's Office when the department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a civil or criminal investigation.
  - 4) Within DAIL, when the department believes sharing of information is necessary for the protection of, and, continued quality of services provided for, vulnerable adults.
- C) When information is released under this section, APS staff will ensure:
- 1) Compliance with VI below regarding documentation of releases of information.



- 2) Reasonable efforts are made to limit information released to the minimum necessary.
  - 3) The identity of the reporter will not be released absent a court order.
- D) For the purpose of this protocol, a law enforcement agency includes but is not limited to the Vermont State Police, county sheriff departments, city/town police departments, federal law enforcement agencies, Medicaid Fraud Unit with the Attorney General's Office, Office of Professional Regulation's Enforcement Division, Department of Motor Vehicles Enforcement Division, and Department of Corrections Probation and Parole Division.

## **V) Distribution of Information and Investigative Records Requiring Approval**

- A) In accordance with 33 VSA §6911(a)(1), APS staff may release information and investigative records obtained through reports and investigations to the following at their request with the approval of the Commissioner or their designee.
- 1) The Office of Professional Regulation (except Enforcement Division as noted above).
  - 2) The Secretary of Education.

- 3) The Commissioner of the Department for Children and Families.
  - 4) The Commissioner of the Department of Financial Regulation.
- B) The Commissioner has designated the Division Director to review and/or approve distribution of information to the above organizations.
- 1) Requests will be made via email to the Division Director with courtesy copies to the Assistant Director and supervisor.
  - 2) The Division Director will respond via email with a decision.
  - 3) If the Division Director approves the distribution:
    - (a) The Division Director will cite the authority for the release.
    - (b) The requestor will document the release in accordance with VI below.
- C) Requests for information from agencies not listed in this protocol will be forwarded to the Division Director for adjudication.
- D) When information is released under this section, APS staff will ensure reasonable efforts are made to limit information released to the minimum necessary.
- 1) The identity of the reporter will not be released absent a court order.

## **VI) Draft Distribution of the Investigative Summary**

- A) APS will not distribute draft investigation summaries outside of APS without the approval of the APS Director.
  - 1) Draft investigation summaries may be delivered to DAIL Legal or an AAG assisting APS, but must be delivered through the Division Director or the APS Director.
  - 2) All released draft investigative summaries will include a “draft” watermark.

## **VII) Documentation of Distribution of Investigative Records**

- A) When a distribution of investigative records is made to anyone outside DAIL, the individual releasing the investigation records will document the release in the APS IMS by way of a note which will include.
  - (a) The individual released to, to include their organization (if applicable).
  - (b) The records released.

- (c) The staff member making the distribution, if different from the writer of the note.
- (d) The release as an attachment if the request was accompanied by a release of information.

### **VIII) Documentation of Distribution of Report Records**

- A) When distribution of report records are made to anyone outside DAIL, and the report did not result in an investigation and creation of an Investigation Folder, the distribution will be documented in a note in the APS IMS attached to the intake.
  - 1) The note will capture:
    - (a) The staff member making the release.
    - (b) The individual released to, to include their organization (if applicable).
    - (c) The date released.
    - (d) The records released.
- B) When information is released under this section, APS staff will ensure reasonable efforts are made to limit information released to the minimum necessary.
  - 1) The identity of the reporter will not be released absent a court order.

## **IX) Redaction of the Investigative Summary**

- A) No redaction is necessary when an Investigative Summary is distributed to the following.
  - 1) The alleged victim of the respective investigation(s), or their representative.
  - 2) As per DAIL Legal memo dated January 24, 2017, the alleged perpetrator of the respective investigation(s), or their representative.
    - (a) If APS staff believe that providing an un-redacted copy of the investigative summary to the alleged perpetrator would jeopardize the health, safety, or welfare of the alleged victim, the APS staff member will notify the APS Director, who will seek counsel from DAIL Legal.
  - 3) Government organizations.
  - 4) Review boards, such as but not limited to the Vulnerable Adult Fatality Review Board, Child Fatality Review Board, and Domestic Violence Review Board.
- B) Redaction is required when investigative summaries are distributed to anyone else.

- C) When redaction is required, the following information will be redacted from the Investigative Summary.
  - 1) Protected health information for any of the investigation participants.
- D) When redaction is required, if the Investigative Summary used the template used within the APS IMS system between April 2012 and September 2016, the following will also be redacted:
  - 1) The entire alleged victim information section except for the name of the alleged victim.
  - 2) Under Other Participant information, the home address, home county, and home phone number of other participants.
  - 3) Under Investigation Results, the entire section should be redacted (this is the portion of the investigation referred to as the Services and Protections Summary, or Written Coordinated Treatment Plan, that highlights the services and protections put in place for the alleged victim).

**X) Vermont Attorney General Medicaid Fraud Unit**

- A) The Medicaid Fraud and Residential Abuse Unit of the Office of the Vermont

Attorney General (MFRAU) is a Medicaid Fraud Control Unit designed by the Secretary of the U.S. Department of Health and Human Services.

- B) This designation allows the MFRAU to access APS records in accordance with 42 CFR §455.21, 45 CFR §164.501, 45 CFR §164.512(d), and 45 CFR §164.514(d)(iii)(A).
- C) Separate from the information sharing described above in III)B)3), when MFRAU provides APS with a records request on letterhead citing the federal regulations above APS is authorized to provide MFRAU with the records requested without additional approvals.
  - 1) The records provided will be the minimum necessary for MFRAU to conduct their investigation.
  - 2) The records provided may include full intake information, including the identity of the reporter, but only if requested by MFRAU.
  - 3) Documentation of the release should occur as described above at VII.

## **XI) Disability Rights Vermont**

- A) Disability Rights Vermont (DRVT) is a federally recognized protection and advocacy organization.

- B) This designation allows DRVT to access APS records in accordance with 42 CFR §51.41. This authorization is comprehensive and includes but is not limited to records (including draft records), notes (including handwritten notes), electronic files, photos, and recordings.
- C) When DRVT provides APS with a records request on letterhead citing the federal regulation listed above, and this record request is accompanied by a release signed by an investigation or intake participant (or their guardian) designating DRVT as their representative, APS is authorized to provide DRVT with the records requested without additional approvals.
  - 1) The records provided will be the minimum necessary for DRVT to fulfill their protection and advocacy role.
  - 2) The records provided may include full intake information, including the identity of the reporter, but only if requested by DRVT.
  - 3) Documentation of the release should occur as described above at VII.



## **6.9 Protocol #9: APS Investigations of Out of State Alleged Perpetrators**

*Updated September 8, 2016.*

The following protocol provides guidance on how to proceed with APS investigations where the alleged perpetrator is outside of Vermont.

### **I) Screening Decisions**

- A) The location or identity of the alleged perpetrator is not a factor when determining if a report received by APS should be screened in for investigation.

### **II) Identified or Identifiable Out of State Alleged Perpetrator**

- A) When an APS report is screened in for field assignment, and the alleged perpetrator is identified or identifiable but resides out of state, the assignment will proceed normally with no special processes/practices.

- 1) For the purpose of this protocol, identifiable means that the alleged perpetrator is someone whose identity can be reasonably expected to be determined through the course of a field assignment.
- B) As with other investigations, the alleged perpetrator will be offered an opportunity to be interviewed.
  - 1) The normal practice will be for these investigations to be conducted via telephone or other communication service not requiring out of state travel.
  - 2) For instances where investigators believe an in person interview with an out of state alleged perpetrator is warranted, investigators must request and receive approval for out of state travel in accordance with DHR policy.

### **III) Unknowable Out of State Alleged Perpetrator**

- A) When an APS report is screened in for field assignment, and the alleged perpetrator is someone whose identity would not reasonably be attainable through the course of an assignment, the investigator will focus their efforts on protective services, referrals, and

notification of appropriate law enforcement.

- 1) An example of this type of alleged perpetrator are individuals residing outside the U.S. and involved with financial scams, such as the “Jamaican Scam” or the “Nigerian Email Scam.”
- B) Field Staff will ensure that all appropriate protections and referrals are made to protect the alleged victim, to include notifying appropriate law enforcement agencies.
- C) Field Staff will close the assignment as soon as the appropriate protective services are implanted, referrals are made, and law enforcement notifications are made.

## 6.10 Protocol #10: Employer Notification of Registry Placement

*Updated January 20, 2017.*

This protocol establishes a process for notifying an employer if an employee of theirs is placed on the Adult Abuse Registry.

### I) Responsibility

- A) In accordance with 33 VSA §6906 (h), APS is required to notify the current employer when an alleged perpetrator is placed on the Adult Abuse Registry, hereafter referred to as Registry.
- B) In accordance with 33 VSA § 6902 (5), employer “means a person or organization who employs or contracts with one or more individuals to care for vulnerable adults, on either a paid or volunteer basis.”
  - 1) APS is not required to notify employers who do not meet the definition above.

## **II) Source of Employer Information**

- A) The definition of employer above limits employment notifications to those employers who care for vulnerable adults.
- B) Employers who care for vulnerable adults use the Registry to check current and potential employees.
- C) The Registry is the only source of information that APS currently may access to identify potential current employers of individuals about to be placed on the Registry.
- D) APS will use the Registry's history as the means to identify potential current employers of individuals about to be placed on the Registry.
  - 1) APS acknowledges that this methodology could result in gaps. However, APS currently does not have access to other records that could provide more complete information to identify potential employers.

## **III) Notice of Registry Addition**

- A) When the APS Senior Planning Coordinator receives notice to place an alleged perpetrator on the Registry, they will query the Registry for all Registry checks made on the alleged perpetrator.

- 1) The query will only be for the data set that began in 2013 and is currently in use as of the signing of this protocol. If a new data set becomes active, the APS Senior Planning Coordinator will notify the APS Director so that this protocol can be updated.
- 2) The Registry's query uses the last name only, and therefore the list generated will be for Registry checks done on all individuals with the same last name.
  - (a) The APS Senior Planning Coordinator will review this list to identify if there have been Registry checks for the alleged perpetrator about to be placed on the Registry.
  - (b) The APS Senior Planning Coordinator will check available identifiers to ensure that any name matches on this list truly are a match and not simply two individuals with the same first and last name.
    - (i) If there are no additional identifiers to confirm a match, the APS Senior Planning Coordinator will notify the APS Director, who will then determine an appropriate course of action.

- B) If there have been no Registry checks on the alleged perpetrator, the APS Senior Planning Coordinator will add a note to the investigation and this process will be complete.
- C) If there were previous Registry checks, the APS Senior Planning Coordinator if needed will work with other intake staff to query all the listed employers to determine if the alleged perpetrator is currently employed with them.
  - 1) The APS Senior Planning Coordinator will contact the employer and request to speak to their Human Resources Department.
  - 2) The APS Senior Planning Coordinator will identify themselves as a representative of the Department of Disabilities, Aging, and Independent Living looking to verify if a person is a current employee of the employer.
  - 3) If the employer responds in the affirmative, The APS Senior Planning Coordinator will request the mailing address of the employer and will then prepare a letter for the coordinator's signature. The coordinator will mail the signed notice to the employer. The coordinator will place a copy of the letter in the Investigation Folder at Tab 2.

- 4) All employers that have previously ran a Registry check for the alleged perpetrator will be contacted, as the alleged perpetrator may work simultaneously for multiple employees.
- D) The APS Senior Planning Coordinator will document the number of employer notifications so that a count of notifications may be reported.



## 6.11 Protocol #11: Investigation Review and Completion

*Updated November 7, 2022.*

The following protocol provides guidance on the review and completion of APS Investigations.

### **I) Responsibility**

- A) It is the responsibility of the Division Director, APS Director, and the APS Field Supervisors, hereby referred to as reviewers, to ensure that every APS investigation is completed and documented appropriately and in accordance with statute, policy, and protocol, and that investigators get timely feedback on their investigative work, to include the documentation of their investigative work.
  - 1) To ensure investigations are completed and documented appropriately, all investigations will be reviewed prior to

closure in accordance with this protocol.

- 2) Reviewers will not complete an investigation or forward it to additional reviewers, if applicable, until it meets the standards set forth in statute, policy, and protocol.

## **II) Minimum Investigation Review Requirements**

A) Reviewers will ensure:

- 1) The investigator's conclusions regarding unsubstantiation or substantiation are consistent with statute and Vermont Supreme Court (VSC) interpretations of statute.
  - (a) In cases where the investigator recommends substantiation, reviewers will seek to identify and, if applicable, resolve any issues that could undermine the recommendation if it is appealed.
- 2) The Investigative Summary is clearly written and prepared in accordance with statute, VSC interpretations, policy, and protocol.
- 3) The required elements are completed and that the investigator did not miss opportunities for investigation that

could have affected the outcome of the investigation.

- 4) The investigator addressed all of the allegations received in the report(s).
  - (a) When there are multiple reports, the investigator will ensure that all reports, even those received after first contact with the alleged victim, are addressed during their investigation.
- 5) The investigator documents all contact with the alleged victim in the Investigative Summary.
- 6) If a reasonable person not affiliated with APS were to review the Investigative Summary, they would conclude that the investigator adequately investigated the allegations and came to appropriate conclusions.

### **III) Review and Completion of Unsubstantiated Investigations**

- A) APS Field Supervisors will review and complete APS Investigations that are unsubstantiated.
- B) The APS Director will review and complete the following unsubstantiated investigations:
  - 1) Investigations completed by an investigator when the appropriate APS

- Field Supervisor is unavailable for an extended period, as determined necessary by the APS Director.
- 2) Upon the request of the Division Director to manage workload.
  - 3) As instructed by the Division Director for specific investigations.
- C) When the investigator finishes their investigation, they will email the Investigative Summary of unsubstantiated investigations to their supervisor for review, with the following exception:
- 1) Investigations pre-designated as exceptions will be sent to the APS Director for review after the designated Field Supervisor has completed their review and prior to closure.
- D) The reviewer will review the summaries and will provide feedback on the investigation as described in this protocol and using the *Track Changes* functionality of Microsoft Word.
- E) After the reviewer and investigator have agreed upon the completion of the Investigative Summary, the investigator will upload the final signed version into the APS IMS by attaching it as a PDF in that investigation as a note.
- F) The investigator will ensure any documents related to the case are

uploaded into the IMS of maintained in hardcopy in the folder.

- G) The investigator will add a determination date to the IMS that will match the date the Investigative Summary is completed and uploaded.
- H) The investigator will notify the reviewer that the investigation is ready for completion in the IMS.
- I) The reviewer will complete the investigation in the IMS and email [aps@vermont.gov](mailto:aps@vermont.gov) to prepare and mail notification letters.
- J) APS Central Office will load notification letters into the IMS.
- K) In the event the investigator completed notification letter(s) the investigator will add the notification letters to the IMS.
- L) The investigator will comply with APS Protocol #15 regarding the delivery of the folder to the APS central office.

#### **IV) Review and Completion of Investigations Recommended for Substantiation**

- A) The APS Field Supervisor will review investigations recommended for substantiation.
- B) Except as noted at C) below, the Division Director will review and complete APS

Investigations that are recommended for substantiation.

- C) The APS Director may make alternate arrangements for review.
- D) When the investigator finishes their investigation, they will email the Investigative Summary to their respective APS Field Supervisor.
- E) The APS Field Supervisor will review the summary and will provide feedback on the investigation as described in this protocol and using the *Track Changes* functionality of Microsoft Word.
  - 1) The APS Field Supervisor will ensure any evidence is either uploaded to the IMS or routed to CO and therefore available for review.
  - 2) After the investigator and the APS Field Supervisor have agreed upon the summary, the APS Field Supervisor will email the Investigative Summary with tracked changes to the APS Director for their review.
    - (a) The APS Director may route the summary to other individuals for review prior to submitting the Summary to the Division Director.
- F) Once the Division Director is satisfied with summary the Division Director will indicate acceptance of the recommendation and request the

Investigator prepare the case for the close of field work.

- G) The investigator will prepare the investigation folder according to guidelines in Protocol #15: Investigation Folder.
- H) The Investigator will upload a signed PDF version of the summary into the IMS by attaching it as a note.
- I) The investigator will add an allegation determination date to the IMS that will match the date the Investigative Summary is finalized.
- J) The investigator will notify the Division Director that the investigation is ready for completion in the IMS.
- K) The investigator will comply with APS Protocol #15 regarding the delivery of the folder to the APS central office.
- L) The Division Director will complete the investigation in the IMS.
- M) The Division Director will inform CO the investigation is ready for notifications.

## **V) Sharing Summaries via Email**

- A) APS staff will use their state email account to share the Investigative Summary.
  - 1) APS staff will not use personal email or any other file transfer system for sharing investigation documents

without the approval of the Division Director or APS Director.

- B) APS staff will include the investigation number in the subject line of the email when sharing the Investigative Summary.

## **VI) IMS Investigation Review and Completion**

- A) Separate from the review of individual investigations, the APS Field Supervisors will ensure that investigators are entering appropriate information into the IMS so that data within the IMS can be used for notification, monitoring, and reporting on APS.

## **VII) Review by Commissioner's Designee**

- A) The DAIL Commissioner has designated the Division Director as their designee to review recommendations for substantiation when a hearing is not requested by the alleged perpetrator to the DAIL Commissioner.



## **VIII) DAIL Legal Review**

- A) Each investigator and reviewer may request guidance from DAIL Legal on an investigation.
  - 1) Requests for assistance from DAIL Legal will go through the Division Director or the APS Director.

## **IX) Notification to APS Leadership for High Visibility Investigations**

- A) Investigators will notify the Division Director and the APS Director any time they complete an investigation with any of the following conditions:
  - 1) The APS Field Supervisor or investigator feels APS, Division, or Department leadership should be aware of a specific investigation, to include but not be limited to investigations that could be precedent setting or when an investigation participant is a high visibility individual.
  - 2) When the investigation was assigned, intake staff marked it as requiring notification of the Division Director or APS Director upon completion.
  - 3) The alleged perpetrator is a state employee, an elected official, a

- member of any state board, or a member of a law enforcement agency.
- 4) The alleged victim is represented by an advocacy organization, such as but not limited to Disability Rights Vermont and Vermont Legal Aid.
  - 5) The reporter is with an advocacy organization, such as but not limited to Disability Rights Vermont and Vermont Legal Aid.
  - 6) There is media coverage of the incident leading to the report.
  - 7) The investigation is associated with specific individuals designated by the Division Director or the APS Director.
- B) These investigations will be conducted in the same manner as other APS investigations. This notification is solely so that APS leadership can be prepared for likely inquiries on these investigations.

## 6.12 Protocol #12: Non-Registry Reviews

*Updated Oct 30, 2023.*

The following protocol provides guidance regarding the conduct of non-registry substantiations.

### I) Purpose

- 1) The APS statute describes the process for reviews and appeals when the intent of the Department is to place the Alleged Perpetrator's name on the registry.
- 2) While the statute anticipates the possibility of APS recommending substantiation on investigations while not recommending registry placement, the statute is silent as to any review or appeal process.
- 3) In the event of non-registry substantiations, assuming the department is not seeking to impose an administrative penalty, there is no impact to an Alleged Perpetrator's life, liberty, or property. At the time any review process is triggered, the APS investigation would be closed, meaning there should be no future action on the case which could be considered interference. Furthermore, the APS record is confidential. Information may only be

released in limited circumstance described in 33 V.S.A. § 6911.

- 4) Regardless of C) above, a final opportunity for the Alleged Perpetrator's position to be considered is afforded prior to the consideration of whether to accept the recommendation for substantiation.

## II) Protocol

- 1) Upon completion of an investigation, the investigative summary describing pertinent evidence obtained during the course of the investigation and recommending a substantiation or unsubstantiation shall be submitted to the Commissioner or Commissioner's designee.
- B) If the recommendation is for substantiation without registry placement, the alleged perpetrator shall be given written notice by certified mail of the recommendation and a summary of the evidence that forms the basis of the recommendation. The notice shall include an opportunity for the Alleged Perpetrator to submit any documentary evidence or other written information that supports the alleged perpetrator's position and provides information to the reviewer in making the most accurate decision regarding the allegation(s).

- C) The Alleged Perpetrator may indicate a desire to submit information for review by notifying the Department within 30 calendar days after the date listed on the Department's notice of the recommendation.
- D) The review will be in the form of a desk review, and the record will be considered along with any information supplied by the Alleged Perpetrator.
- E) At least 30 calendar days prior to the desk review, the Department shall provide to the alleged perpetrator requesting a desk review the following:
  - a. the redacted investigation file, which means only the portion of the investigation file relevant to an Adult Protective Services recommendation, redacted as necessary to minimize disclosure of any confidential information;
  - b. instruction as to how any documentary evidence or other written information may be submitted for consideration in the review.
- F) If the alleged perpetrator requests a desk review, they shall have 30 calendar days from the date of their request or the date which they were provided the materials in Section E, whichever is later, to submit

supplemental information, testimony, or documentation to be considered in the desk review.

- G) In determining the weight to be given any such evidence or information, the desk reviewer shall consider whether the alleged perpetrator had an opportunity to present the evidence or information to the investigator during the investigation and, if so, the reasons for the failure to present the evidence or information at that time.
- H) Within seven calendar days after the completed review, the desk reviewer shall:
  - (1) reject the Investigator's recommendation of substantiation;
  - (2) accept the Investigator's recommendation of substantiation; or
  - (3) defer any recommendation and direct the Investigator to further investigate upon the recommendation of the desk reviewer.
- I) Within seven calendar days of the decision to reject, accept, or to defer the recommendation of substantiation, the reviewer shall provide notice to the alleged perpetrator of the reviewer's decision.
- J) If the reviewer accepts or rejects the Investigator's recommendation of substantiation, the case shall be finalized, and the record shall be maintained in accordance with 6911 (b).

### **III)** Authority

- 1) The desk reviewer shall be the Commissioner or designee.

## **6.15 Protocol #15: Investigation Folder**

*Updated Oct 06, 2023.*

The following protocol provides instructions on creating the Investigation Folder.

### **I) Investigation Folder**

- A) The Investigation Folder will contain the information gathered during the course of an investigation which cannot be directly uploaded in the IMS. All information gathered will either be included in the folder or within the electronic record system.
- B) Responsibilities:
  - 1) The investigator will be responsible for creating and preparing the Investigation Folder, if needed as part of the investigation.
  - 2) The APS Senior Planning Coordinator will be responsible for the maintenance of the Investigation Folder once the investigation is complete and the file logged as received in Central Office.



## II) Investigation Folder Layout and Contents

- A) Letter is the preferred size for paper records generated by the investigator. Small pieces of paper, such as post-it notes or other non-letter-sized items should be avoided when possible.
- B) If a piece of evidence cannot be included in the folder for whatever reason, at the completion of the investigation the evidence will be given to the APS Senior Planning Coordinator and the coordinator will insert a note in the folder describing the piece of evidence and documenting where it is located.
- C) All electronic data collected during the investigation will either be uploaded to the IMS or placed on a data disc or some other suitable storage media and placed within the folder or The electronic note will include a description of what the data is (i.e. Bank Statements, Audio Interview with AP, etc.).
- D) Medical records are Protected Health Information (PHI) and should not be maintained in APS records unless they were reviewed by the investigator during the course of the investigation.
- E) Medical records will be maintained by APS in accordance with APS Protocol 18

regarding medical records.

- F) Staples will not be used anywhere in the Investigation Folder. The folder should be prepared in such a way that all paper documents can easily be removed and scanned.
- G) Records maintained within the electronic records system are not to be printed for the express purpose of placing them in the folder.

### **III) Completion of Investigative Folder**

- A) The investigator will add all investigation items to the folder as described in II above.
  - 1) The investigator will ensure that all notes and information relevant to the investigation are added either to the Investigation Folder or to the electronic record system.
  - 2) Notes in the APS IMS that do not pertain to the investigation but are internal communications do not need to be printed and added to the Investigation Folder (example: a pop-up note alerting the investigator that the AV has a large dog).
- B) If the investigation is unsubstantiated, the investigator will retain the Investigative Folder until the next APS Staff Meeting at APS HQ at the Waterbury State Office

Complex or mailed to WSOC, preferably in packaging supplied by the Senior Planning Coordinator.

- 1) The investigator will comply with APS Protocol #11 regarding the review of investigations.
- 2) On the staff meeting day, the investigator will drop the folder in the indicated box within the Intake room and will log the folder as delivered.
  - (a) Central office staff will check-in the folder and verify the folder is compliant with II above.
  - (b) If the folder is compliant, central office staff log folder as received and file it in APS Filing System.
    - (i) The file received date will be entered into the electronic record system and the folder placed in the appropriate filing cabinet.
  - (c) If it is not compliant, central office staff will contact the investigator for corrections.
- 3) If the investigator misses staff meeting day, they will mail their unsubstantiated investigations to central office for review.
  - (a) Folders received via mail will be logged by the central office staff and processed as per III)B)2)

- C) If the investigation is recommended for substantiation, in anticipation of an appeal, the Investigator will mail the completed Investigation Folder to central office if there is material which cannot be loaded in the IMS, within two business days for completion.
- 1) The APS Central Office Staff will comply with APS Protocol #11 regarding the review of investigations.
  - 2) Folders received via mail will be recorded on logs by the central office staff.
  - 3) The central office staff will review to ensure the folder is compliant with II above. If it is not, they will attempt to correct the problems but will then notify the investigator and their supervisor of the issues. If the central office staff can not correct the problems, it will be mailed back to the investigator for corrections.
  - 4) If the folder is compliant, central office staff will log folder as received and file it in APS Filing System.
    - (i) The File Received date will be entered into the electronic record system and the folder placed in the appropriate filing cabinet.

## **IV) Investigation Folder and Appeals**

- 1) In the event of an appeal the contents of the investigation folder will be scanned and loaded into the electronic record system.
  - (a) Records that cannot be loaded into the electronic record system will be duplicated and the copy given to DAIL Legal.
    - (i) Only in the event an item cannot be duplicated, or upon specific request, will the original be given to DAIL legal.
- 2) See Protocol 16 regarding the handling of Service and Protection Summaries.

## **6.16 Protocol #16: Services and Protections Summary**

*Updated November 2, 2023.*

The following protocol provides guidance on how investigators will prepare the Services and Protections Summary.

### **I) Services and Protections Summary**

- A) The Services and Protections Summary is a component of the Investigation Folder.
  - 1) Although the Services and Protections Summary is part of the Investigation Folder, it will not contain information relevant to APS' conclusion for an investigation unless that information is already documented elsewhere in the Investigation Folder.
  - 2) The Services and Protection Summary is not an investigative document.
- B) The Services and Protections Summary is a single document that is the summary of the services, referrals, and protections made by the investigator. The Services and Protections Summary will:

- 1) Assess the alleged victim's current situation.
  - 2) Describe any unmet needs of the alleged victim.
  - 3) Describe any referrals for services or protections implemented to meet the alleged victim's unmet needs.
  - 4) Document if the alleged victim declines services.
  - 5) Describes any referrals to other investigative bodies.
- C) The investigator will prepare a Services and Protections Summary for every investigation excepted as noted below.
- 1) A Services and Protections Summary is optional if the investigator determines that the alleged victim is not a vulnerable adult.

## **II) Services and Protections Summary Template**

The Services and Protections Summary will be documented within IMS under the documentation tab.

### **III) Instructions for Header**

- A) The investigator Will click on the participant tab and select the AV from the drop-down menu.

### **IV) Instructions for Part 1: Narrative**

#### **Description Assessing the unmet needs of the AV**

- A) The investigator will manually enter the unmet needs of the AV in a narrative format using bullet statements
- B) If the AV has no unmet needs the investigator will manually enter a statement indicating the AV has no unmet needs
- C) If the AV is deceased, the investigator ill manually enter in narrative format that AV is deceased and provide the date of death.

### **V) Instructions for Part 3: Referrals Made for Services for the AV**

- A) This section consists of a table. On the left side of the table is a listing of the most frequent service providers APS makes referrals to. Click each referral and select the appropriate notation from the drop-down menu for the referral.



1. No Identified need
  2. Referral made
  3. Already in place
  4. Refused
- 1) Other referral requires the investigator to manually enter the referral made in a narrative format. If the investigator is confident that either the alleged victim and/or their representative can contact service providers directly, the investigator can simply refer the alleged victim and/or their representative to the service provider and allow them to initiate contact.
- B) Referral comments will manually be entered by the investigator in narrative format.
1. A description will be manually entered by the investigator in narrative format in this section, to provide a brief description of why the investigator feels the alleged victim and/or their representative can successfully initiate contact
  2. Other referral requires the investigator to manually enter the referral made in a narrative format.
  3. The referrals here should address a need identified in Part 1.

## **VI) Instructions for Part 3: Protective Services Implemented for the AV**

- A) This section consists of a table. On the left side of the table is a listing of the most frequent protective services used by APS. Click each protective service and select the appropriate notation from the drop-down menu for that protective service.
1. No identified need
  2. Referral made
  3. Already in place
  4. Refused
- B) Other Protective Service requires the investigator to manually enter the referral made in a narrative format.
- C) The protective services here should address a need identified in Part 1.
- D) Protective Service comments will be manually entered by the investigator in narrative format.
- If the investigator is confident that either the alleged victim and/or their representative can establish a protective service directly, the investigator can simply refer the alleged victim and/or their representative to the protective service and allow them to initiate contact. A description will be manually entered by the investigator in narrative format in this section, to provide a brief description of

why the investigator feels the alleged victim and/or their representative can successfully initiate contact.

## **VII) Instructions for Part 4: Declination of Services**

- A) A drop-down menu to the left of the question asked “Were the services declined” provides a yes or no answer. Select the appropriate option from the drop-down menu.
- B) The investigator will enter a brief description in the Declination of services comment box, manually in a narrative format
  - 1) The investigator will attempt to have the alleged victim sign a release indicating they are refusing services and protections. If the alleged victim refuses to sign a release, that will be described briefly as well.

## **VIII) Instructions for Part 5: Referrals Made to Other Investigative Bodies**

- A) This section consists of a table. On the left side of the table is a listing of the other investigative bodies APS most frequently makes referrals to. Click each referral and select the appropriate notation from the drop-down menu for the referral.

1. No identified need
  2. Referral made
  3. Investigation previously initiated
- B) Other Investigative Body requires the investigator to manually enter the referral made in a narrative format.
- C) The referrals here should address a need identified in Part 1.
- D) Other Investigative Body comments will manually be entered by the investigator in narrative format.
1. A description will be manually entered by the investigator in narrative format in this section, to provide a brief description of why the investigator feels the alleged victim and/or their representative can successfully initiate contact.

## **IX) Distribution of the Services and Protection Summary**

- A) The Services and Protection Summary is a component of the Investigation Folder.
- 1) Anyone authorized to review the Investigation Folder while it is in APS' possession may review the summary, to include any file review team.
- B) A copy of the Services and Protections Summary is not releasable to anyone, including the reporter and alleged victim.

- C) If an appeal of APS' decision regarding an investigation, the Services and Protections Summary will be removed from the Investigation Folder prior to the folder's delivery to DAIL Legal.

## 6.17 Protocol #17: Investigative Summary

*Updated June 5, 2023.*

The following protocol outlines instructions on preparing the Investigative Summary.

### IV) Investigative Summary

- 1) The Investigative Summary is a component of the Investigation Folder.
- 2) The Investigative Summary is a single document that is a summary of the investigation. The Investigative Summary:
  - a) Describes the allegations.
  - b) Describes the steps taken by the investigator to investigate the allegations.
  - c) Describes the evidence collected during the course of the investigation.
  - d) Describes the investigator's conclusions based on the evidence.
- 3) The conclusions reached by the investigator must be justifiable when considering only the Investigative Summary.

- 4) The investigator will prepare an Investigative Summary for every investigation taken to completion.
  - a) The Investigative Summary should be completed at the conclusion of the investigation utilizing all information relevant to the conclusion.

## **V) Investigative Summary Template**

- 1) APS Investigations will be documented on a Microsoft Word Investigative Summary Template current to the time of writing of the summary. No other summaries are allowable.
  - a) The Vermont Investigative Summary found in the APS IMS Document Sections will no longer be used effective the date of this protocol.

## **III) Names in Investigative Summary**

- 2) The investigator will only name the alleged victim and the alleged perpetrator in Part 1 of the Investigative Summary. Hereafter, the alleged victim will be referenced as AV.
- 3) In non-complex investigations the alleged perpetrator may be referenced as AP.
- 4) In more complex investigations where

there are multiple alleged perpetrators it is recommended that the alleged perpetrator is referenced as AP \_\_\_\_\_ (last name) for example AP SMITH.

- 5) Continuity of how AP is referenced in the Investigative Summary will be maintained throughout the Investigative Summary.
- 6) For other investigation participants, each time a name is used for the first time in each part of the Investigative Summary, both the first and last name will be provided.
  - a) Each subsequent time a name is used within that part of the summary, only the last name should be used.
  - b) If there are multiple individuals involved with the investigation that share the same last name, the first name or first initial may be used each subsequent time a name is used within that part of the summary.
  - c) Middle initials, middle names and suffixes should only be used in the Investigative Summary to prevent confusion in the report when two individuals have the same first and last name.
- 7) The investigator will refer to themselves in the first person (examples: “I recommend substantiation.” “I interviewed John Williams Sr.”).



## **VI) Numbering in Investigative Summary**

- 1) The Investigative Summary Template will include numbering systems for each section. Investigators will use this numbering system, unless approved by their supervisor.

## **VII) Instructions for Header**

- 1) The investigator will double-click inside the box labeled “Investigation Number” and will manually enter the investigation number. The number will then automatically be displayed on all pages of the summary.

## **VIII) Instructions for Part 1: Investigation Participants and Investigation Conclusion**

- 1) The investigator will manually enter the information in this section into the boxes provided, which is limited to the names of the investigator, alleged victim, and alleged perpetrator; and the investigation conclusion.

- a) For the investigation conclusion, the investigator will check the box consistent with their conclusion.

## **IX) Instructions for Part 2: Allegation Summary**

- 1) The investigator will provide a brief summary of the allegations received that led to the investigation.
  - a) The investigator will provide the information at B) below to ensure that all allegations are documented and easily viewable.
  - b) The investigator will not include the full intake.
  - c) The purpose of this section is not to provide evidence for the investigation conclusion but to show what triggered an APS investigation.
- 2) Included will be:
  - a) The date the intake was received by APS.
  - b) The maltreatment type from the report
  - c) The date the intake was assigned for investigation to the investigator.
- 3) Do not include:
  - a) Any reference to the reporter.
  - b) The investigation priority level.

## **X) Instructions for Part 3: Evidence and Sources**

- 1) The investigator will describe the interview with the alleged victim.
  - a) The interview documentation should follow the guidance under VIII) C below.
  - b) If the investigator was not able to interview the alleged victim the investigator will document the reason.
- 2) The investigator will offer an opportunity to be interviewed to the alleged perpetrator.
  - a) The interview documentation should follow the guidance under VIII) C below.
  - b) If the investigator was not able to interview the alleged perpetrator the investigator will document the reason.
- 3) The investigator will seek to identify and interview any available direct witnesses to the incident.
  - a) The interview documentation should follow the guidance under VIII) C below.
  - b) The interview(s) of individuals who may have information relevant to the investigation but did not witness the alleged incident will be documented in Part 4.

- 4) The investigator will describe all other interviews and material collected considered evidentiary in the investigation not already included in Part 3. The description should be in chronological order and include all relevant information that contributed to the investigator's conclusions. The conclusions reached in Parts 4 through 9 shall be grounded on this description.
  - a) The investigator will avoid including information in the summary that is not relevant to the conclusion of the investigation.
  - b) The IMS or Investigation Folder is the appropriate place to provide all of the evidence gathered, to include the documentation of the interviews and information gathered but not considered inculpatory or exculpatory.
  
- 5) In most situations, each numbered paragraph should begin with a date to indicate when the events described in that paragraph occurred.
  - a) Preferably, dates will use the "month date, year" format which appears like March 15, 2016.
  - b) A comma is used after the year, except when a date is at the end of a sentence,

in which case a period is used  
(example: “On March 16, 2016, I  
interviewed...”).

- 6) There are a variety of ways to document interviews, and the investigator will choose the methodology appropriate for the investigation.
  - a) The investigator will include:
    - (a) Name
    - (b) Date of the interview.
    - (c) A brief description of the interview setting, to include the interview type (example: phone, in person, etc.) and individuals present during the interview.
    - (d) Title (if applicable) of the individual interviewed. When a title is given, the organization will also be provided.
    - (e) Relationship to the alleged victim will be identified in parentheses after their name is listed (if applicable). By relationship, this could be a family/friend relationship (examples: sister, son, mother, etc.), a professional relationship (examples: case manager, shared living provider, etc.), or both (example: son and shared living provider).

- b) The investigator is not expected to create a comprehensive transcript of the interview in the Investigative Summary.
  - (a) Although the investigator's notes should document all matters discussed during an interview, in the Investigative Summary the investigator should only document those portions of the interview relevant, inculpatory or exculpatory, to the investigator's conclusion.
  - (b) If the interview resulted in no information relevant to the investigator's conclusion, the investigator should describe who was interviewed, when, and where, followed by a statement that no relevant information was gathered (example: "On March 20, 2016, I interviewed Yellow Birds Home resident Martha Smolenski in her room. Smolenski provided no information relevant to the investigation.").
  - (c) Investigators are encouraged to use bullet statements over standard narrative, especially for longer interviews.

- (a) Investigators are encouraged to introduce bulleted lists in such a way as to make it clear how the information was elicited (examples: “During the course of the interview and in response to my questions John Doe provided the following information:”; “John Doe provided the following information without questions or prompts on my part:”).
  - d) The investigator will consider whether to include their statements or questions as part of the description (example: “John Doe stated he didn’t know the AP.” vs. “When I asked John Doe if he knew the AP, he said he did not.”).
  - (a) Whenever the investigator suspects that statements may be contested in the future, it is beneficial for the investigator to include their statements and questions that led to the statements of the individual interviewed.
  - e) Attempts to interview should also be included.
- 7) Record checks conducted as part of the investigations will be documented in Part 4.

- a) The specific type of record check should not be included in Part 4. Instead, the generic term “record check” or “records check” should be used and documented that details of the record(s) check can be found in the notes of the electronic investigative file (example: On March 16, 2016, I conducted records check on AP information gathered from the record(s) checks has been recorded to the note section of the APS IMS system.
- b) If the record(s) check were performed by intake staff, the investigator will document the results in Part 4 (example: “On March 19, 2016, Program Specialist Tracey Simmons conducted a record check on the AP information gathered from the record check has been uploaded to the note section of the APS IMS system.)
- c) When an investigator develops information through an interview or other evidence that corroborates relevant information discovered in a record check that has and/or provides substance to the allegation the record check information may be included in Part 5 at that time. (example: AP Jones admitted that what happened did



not look good based on AP Jones's past history, but AP Jones denied financially exploiting AV. During the record check I located a Title 13 Conviction for AP Jones. On March 17, 2015, AP Jones was convicted of Financial Exploitation a felony conviction.)

- 8) Protective services and referrals should not be described in the Investigative Summary except when they are relevant for the investigation conclusion.
- 9) The investigator will describe the protective services and referrals made in the Services and Protection Summary, which is a separate document, in accordance with APS Protocol #16.
  - a) Protective services and referrals should not be described in the Investigative Summary except when they are relevant for the investigation conclusion.
- 10) Medical information should not be described in the investigation description except when it is relevant to the investigation conclusion regarding abuse, neglect, and exploitation or establishing the alleged victim's vulnerable status

- 11) The investigator may choose to use the tools available in Microsoft Word to support their narrative. This includes but is not limited to tables and pictures.
  - a) The investigation reviewers will ensure that any additions to the narrative are appropriate for the investigation.
  
- 12) Any material developed or reviewed by the investigator during the investigation must be maintained in the file regardless of the relevance to the conclusion. However, only the material and information considered evidentiary must be included in the summary.

## **XI) Instructions for Part 4: Alleged Victim Determination of Vulnerable Status**

- 1) The investigator will select the relevant portion of statute that pertains to the alleged victim.
  - a) The investigator will describe whether the alleged victim meets the statutory definition of a vulnerable adult in accordance with 33 VSA §6902 using information gathered.
- 2) The investigator should only provide enough medical information as necessary

to establish that the alleged victim is or is not a vulnerable adult.

- a) When the alleged victim meets the qualifications of a vulnerable adult under 33 VSA §6902 (14)(A-C), the investigator will only indicate that the alleged victim is a resident of such a facility or in receipt of personal care services and will not describe any of the alleged victim's medical conditions.
  - b) When the alleged victim meets the qualifications of a vulnerable adult under 33 VSA §6902 (14)(D), the investigator will only include enough medical information to show that the alleged victim is impaired in their ability to provide for their own care or is impaired to protect themselves, as described in (14)(D)(i-ii).
- 3) If the alleged victim's vulnerable status has recently changed, the investigator will describe how the alleged victim was or was not a vulnerable adult at the time of the allegations.

## **XII) Instructions for Part 5: Determination of Alleged Perpetrator Caregiver Status**

- 1) Whether the AP is a caregiver and in what manner the AP is a caregiver is relevant

for all investigation to determine if registry placement should be recommended.

- 2) A caregiver determination is also relevant for Neglect allegations.
- 3) Guidelines for describing the caregiver formulation can be found in Protocol 45.

### **XIII) Instructions for Part 6: Investigation Recommendation – Abuse**

- 1) The investigator will select the relevant portion of statute that pertains to the alleged victim.
- 2) The investigator will describe whether the investigation resulted in a preponderance of evidence that the alleged perpetrator abused the alleged victim in accordance with the definition of abuse found at 33 VSA §6902 using information gathered.
- 3) If the investigator has concluded that the alleged perpetrator has not abused the alleged victim, the investigator will state: “I do not recommend substantiation for abuse.”
  - a) The investigator, at their discretion, may provide a rationale for their decision to unsubstantiate an investigation. Reviewers will ensure that any rationale provided is appropriate.

#### **XIV) Instructions for Part 7: Investigation Recommendation – Neglect**

- 1) The investigator will select the relevant portion of statute that pertains to the alleged victim.
- 2) The investigator will describe whether the investigation resulted in a preponderance of evidence that the alleged perpetrator neglected the alleged victim in accordance with the definition of abuse found at 33 VSA §6902 using information gathered.
- 3) If the investigator intends to make a recommendation of substantiation, they must also show how the alleged perpetrator meets the definition of a caregiver found at 33 VSA §6902.
- 4) If the investigator has concluded that the alleged perpetrator has not neglected the alleged victim, the investigator will state: “I do not recommend substantiation for neglect.”
  - a) The investigator, at their discretion, may provide a rationale for their decision to unsubstantiate an investigation. Reviewers will ensure that any rationale provided is appropriate.

**XV) Instructions for Part 8: Investigation  
Recommendation – Exploitation**

- 1) The investigator will select the relevant portion of statute that pertains to the alleged victim.
- 2) The investigator will describe whether the investigation resulted in a preponderance of evidence that the alleged perpetrator exploited the alleged victim in accordance with the definition of exploitation found at 33 VSA §6902 using information gathered.
- 3) If the investigator has concluded that the alleged perpetrator has not exploited the alleged victim, the investigator will state: “I do not recommend substantiation for exploitation.”
  - a) The investigator, at their discretion, may provide a rationale for their decision to unsubstantiate an investigation. Reviewers will ensure that any rationale provided is appropriate.

**XVI) Instructions for Part 9: Investigator  
Signature**

- 1) After the Investigative Summary has been reviewed and approved in accordance with

APS Protocol #11 regarding investigative review, the investigator will sign their name, date it and will upload it to the APS IMS or maintain it in the investigative file.

## **6.18 Protocol #18: Investigation Requirements and Evidence Documentation**

*Updated April 1, 2023.*

The objective of this protocol is to provide APS investigators with best practices for conducting investigations.

### I) Statutory

A) The investigation shall include, except where inclusion would jeopardize the health, welfare, or safety of the vulnerable adult:

1. a visit to the reported victim's place of residence or place of custody and to the location of the reported abuse, neglect, or exploitation;

2. interviews with any available witnesses to the alleged maltreatment;

3. an interview with the reporter of the alleged abuse, neglect, or exploitation;

4. an interview with the reported victim, which interview may take place without the approval of the vulnerable adult's parents,



guardian or caregiver, but cannot take place over the objection of the reported victim; and

5. an opportunity for the person who allegedly abused, neglected, or exploited to be interviewed.

## II) Evidence

- A) Evidence collected shall be maintained in the IMS system or Investigation file.
- B) Investigators who obtain evidence shall document the evidence within the investigative summary in accordance with Protocol 17 identifying what the evidence is, where/who the evidence was obtained from, and how the evidence is relevant to the investigation and/or allegation.
- C) When documentary evidence is requested, the request shall be documented in the investigative summary in accordance with Protocol 17.
- D) Documentary evidence such as medical records, bank records, care plans, etc. should be requested from the source of the records (i.e. providers offices, financial institutions, facilities, etc.)
- E) Documentary evidence obtained from other sources should only be relied upon if a request was made to the source of the records and the source of the records did not comply with the request.

- F) Any reference to evidence within an investigative summary will have the corresponding evidence included in the investigative file or IMS in accordance with Protocol 17.

III) Correspondence/communication related to an investigation.

- A) It is good practice to include all correspondence between investigation participants and the investigator in IMS or within the case file.
- B) Voicemails should be forwarded to the investigators email and downloaded to be included with the investigative file or uploaded to the data library/IMS.
- C) Any correspondence or communication referenced in the Investigative summary shall be memorialized within the investigative file or IMS.

IV) Other material reviewed but not found relevant to the investigation.

- A) Any other information gathered and reviewed as part of the investigation but not found to be relevant to the conclusion need not be inventoried in the Investigative Summary but must be maintained in the Investigative file or IMS.

## **6.19 Protocol #19: Reversing Decision for Closed Contacts**

*Updated February 24, 2017.*

This protocol establishes a process for reversing a screening decision not to investigate a report received by APS.

### **I) Reversing Screening Decisions for Closed Contacts**

- A) A screening decision not to investigate a report to APS may be reversed for the following reasons:
- 1) At the direction of the APS Director, Division Director, or DAIL Commissioner.
  - 2) As the result of a Commissioner's review.
  - 3) As a result of APS' receipt of new information, regardless of the source, that justifies an investigation in accordance with statute, policy, and/or protocol.

## **II) Process for Reversing Screening Decisions for Closed Contacts**

- A) The staff member aware of the need to reverse the screening decision will alert the APS Assistant Director .
  - 1) If the Assistant Director is unavailable for more than a business day, the staff member will notify the APS Director. If the director is also unavailable, the staff member will notify the Division Director.
- B) The Assistant Director will conduct the reversal or direct that it be done and note it in the screening comments in the APS IMS.
- C) The Assistant Director will assign the investigation as described in Protocol #3 regarding investigation assignments.

## 6.21 Protocol #21: Investigation Boundaries

*February 13, 2019.*

This protocol provides guidance on boundaries for APS field staff so that field staff investigators and field supervisors have a common understanding on what activities fall outside of APS' statutory authority and role.

### I) Statutory Authority

- A) 33 V.S.A, Chapter 69, establishes APS' authority to act.
- B) APS staff shall only take actions that are authorized in statute unless clearly described in policy or protocol, or with the explicit consent of the Division Director or APS Director.
  - 1) Field staff are responsible for assessing and investigating allegations of abuse, neglect, and exploitation; implementing appropriate protective services; and making appropriate referrals for services.
- C) In considering their actions while completing their statutory responsibilities,

field staff will ensure they comply with APS Protocol #1 regarding their personal safety.

## **II) Management Authority**

- A) The Commissioner, Deputy Commissioner, Division Director, or APS Director may expand authorized actions on an assignment by assignment basis.
  - 1) The director or assistant director will provide guidance on adjusted boundaries to the appropriate APS Field Supervisor and APS Field Staff via Email. This Email will be printed and added to the data management system. .

## **III) Supervisory Authority**

- A) APS Field Supervisors are authorized to establish boundaries for their field staff, to include determining when field staff has taken sufficient action and should proceed to closing the assignment.
  - 1) If field staff disagrees with an APS Field Supervisor's decision to disengage from an assignment, they may request a review by the APS Director.

- (a) The director will consider input from both the field supervisor and field staff in conducting their review.
- 2) Failure to follow supervisory direction to disengage from an assignment may be considered insubordination and could result in feedback or discipline for misconduct.

#### **IV) Alleged Victim Not a Vulnerable Adult**

- A) Field Staff will immediately cease assessment/investigation as soon as they determine that the alleged victim is not a vulnerable adult and follow procedures specified in APS Protocol 59: Verification of Authority to Investigate. Prior to making any referrals, field staff will review APS Protocol 37 regarding sharing information when the alleged victim is not a vulnerable adult.

#### **V) Limited Case Management Role**

- A) APS does not provide long-term case management services for participants.
- B) Field Staff shall limit their case management for participants to implementing appropriate protective

services and making appropriate referrals during the course of the assignment.

- 1) Field Staff shall not participate in service provider team meetings to determine appropriate care for participants. In accordance with Appendix A of the APS Policy Manual, “Care” means subsistence, medical services, custodial services, personal care services, mental health services, or rehabilitative services, and includes assistance with activities of daily living or instrumental activities of daily living.”
  - 2) Field Staff may participate in team meetings to discuss or determine appropriate protective services or referrals during the investigation.
- C) If field staff initiates protective services during the assignment, and the protective services are not yet in place at the conclusion of the assignment, field staff will discuss their future participation with the appropriate APS Field Supervisor, and the field supervisor will determine whether field staff should continue to implement these protective services after the conclusion of the assignment.



## VI) Other Services

- A) Field Staff will not provide other services beyond what is described at Part I above to participants without the approval of the appropriate APS Field Supervisor. The field supervisor will determine whether to consult with the APS Director or the Division Director.
- B) Field Staff will not:
  - 1) Provide care.
    - (a) In accordance with Appendix A of the APS Policy Manual, ““Care” means subsistence, medical services, custodial services, personal care services, mental health services, or rehabilitative services, and includes assistance with activities of daily living or instrumental activities of daily living.”
  - 2) Develop a plan of care for participants.
    - (a) The Services and Protection Summary is not a plan of care.
    - (b) The definition of care above applies to a plan of care.
  - 3) Provide prescriptive guidance to service providers on how to care for participants.
  - 4) Provide transportation to participants.

- 5) Provide respite care and/or supervision for participants or in any way become responsible for the care and well being of a vulnerable adult.
- 6) Attend medical appointments with participants, unless the medical appointment is directly related to determining vulnerability or the allegations of abuse, neglect, and exploitation.
- 7) Provide financial, legal, medical, mental health, substance abuse, or therapeutic counseling; mediation services; or life coaching.

## **VII) Joint Investigations**

- A) Field Staff are encouraged to work with other investigative bodies, as appropriate, during the course of their assignment.
- B) When working with other investigative bodies, however, APS Field Staff will not exceed their statutory authority. Field Staff will limit their involvement to the allegations that a vulnerable adult was abused, neglected, and exploited. Field Staff will not assist other investigative bodies with other investigative goals without the approval of the APS Director or Division Director.

## **VIII) Field Work Prior to Assignment**

- A) Field Staff will not begin field work until an assignment is assigned to them by their APS Field Supervisor.
- B) If field staff receives information that may result in an additional assignment, they will relay this information to the APS Assistant Director, who will determine whether an additional APS assignment is warranted.

## **I)**

## 6.23 Protocol #23: Assessment Procedures

*Written June 6, 2023*

The following protocol provides guidance on how APS Service Navigators should execute their duties.

### I) Assessment- Scam

- A) Field staff will make attempts to interview the reporter.
- B) Field staff will conduct a face-to-face visit within the time limits as described Protocol 4.
- C) Field Staff will conduct an assessment to determine the victim's vulnerability and if the AV maintains the ability to manage finances independently.
- D) Field staff will determine if there is an alleged perpetrator that can be identified. If one is identified, and the alleged perpetrator meets the definition of a caregiver, or if the allegation is likely to result in criminal charges. Field Staff will work with the alleged victim to put protective measures in place and refer and request the assessment be transitioned to an investigation. The

field staff may accompany the new assigned investigator to ensure a smooth transition if appropriate.

- E) If it is determined the AV can manage finances independently, the field staff will assist the victim with implementing safety measures to ensure no further exploitation occurs and assist the AV in reporting to the appropriate authorities. If the victim does not want APS Services, the navigator will complete APS Form #3 (Declination of Services).
- F) If it is determined the AV cannot manage their own finances, the field staff will work with the victim to determine if there are any natural supports that can assist and make referrals to the appropriate services. The field staff will work with community services to ensure a soft handoff. The field staff will assist the AV in reporting to the appropriate authorities.
- G) Depending on the situation, scam cases could require multiple visits. The navigator will have 60 days from the date of assignment to complete the above steps. A 30-day extension may be requested.
- H) Notes to include all assessments, documents requested, documents obtained, and referrals made will be screened into the IMS.

## II) Assessments

- A) When an intake appears to be self-neglect but has a potential for ANE, the intake will be screened in for assessment.
- B) Field Staff will conduct a face-to-face visit with the alleged victim within 10 days. During this visit the field staff will confirm vulnerability and determine if there are any potential perpetrators.
- C) If field staff determines that the victim is not vulnerable, the field staff will assess for service needs, complete APS form #2 (Authorization for APS to Make a Referral for an Individual who is Not a Vulnerable Adult) and make appropriate referrals. This will end the field staff involvement.
- D) If it is determined that the alleged victim is vulnerable and it is a self-neglect case, field staff will work with the victim to determine if there are any natural supports that can assist and will make referrals to the appropriate services, working to ensure a soft handoff.
- E) If it is determined that the alleged victim is a vulnerable adult, is cognizant, there is maltreatment, the AV is refusing to cooperate and there is no reasonable path forward to investigate, then the Service Navigator will follow Protocol #6 VI.
- F) If the AV is determined vulnerable and is refusing to cooperate or is refusing referrals, the Service Navigator will complete APS Form #3 (Declination of Services).

- G) Depending on the situation, a Assessment could take multiple visits. The navigator will have 60 days from the date of assignment to complete the case. A 30-day extension may be requested.
- H) Notes to include all assessments, documents requested, documents obtained, and referrals made will be screened into the IMS.

## 6.25 Protocol #25: Interview Recordings

*Written October 12, 2022*

The following protocol provides guidance on how APS Investigators will conduct and handle interview recordings

### **III) Recorded interviews**

- A) APS Investigators are authorized to record interviews with investigation/assessment participants during the course of an investigation/assessment in compliance with this protocol.
- B) Recordings will only be created on an approved electronic device.

### **IV) Recording Process**

- A) Management strongly recommends Investigators/Navigators start their recording before interacting with the interviewee and end it after parting from the interviewee.



- B) Investigators/Navigators will start the recording providing a header note containing:
  - 1) Investigation/Assessment number
  - 2) Date, time, type of interview (in person, telephone call, etc.)
  - 3) Identify person being recorded and any other participants.
- C) When investigators/Navigators meet with the interviewee, they will advise the interviewee that the conversation is being recorded.
- D) If the interviewee objects to a recording of the interview the investigator may deem this objection as a refusal to participate or a declination to be interviewed.

## **V) Handling of Recordings**

- A) During the course of an investigation/assessment, if an investigator collects or creates an interview recording, they will transfer the recording from the electronic device used to create the recording to their government owned lap top computer.
- B) The investigator/navigator will then burn a CD or DVD of the recording or transfer the recording to a USB thumb drive obtained from the Senior Planning Coordinator or approved for use by the Senior Planning Coordinator.

1. The investigator/navigator will label the CD, DVD, or thumb drive.
  2. The label will have the following on it:
    - a) Investigation Number
    - b) Interviews
    - c) Disk 1 of \_\_ or 1 of \_\_
- C) At the conclusion of the investigation the investigator/navigator will hand deliver or mail the CD, DVD, or thumb drive to the Senior Planning Coordinator or include it in the file that is hand delivered or mailed to the Senior Planning Coordinator.
1. For substantiated investigations:
    - a) the investigator will mail or deliver the CD, DVD, or thumb drive immediately after submitting the investigation for review by their supervisor.
    - b) The investigator/navigator will not password protect or otherwise secure the recording.
  - 1) The investigator/navigator will rely on the security systems already in place on the computer or at their work area to protect the contents of the CD, DVD or thumb drive.
- D) When the APS Senior Planning Coordinator receives a recording the Senior Planning Coordinator will transfer the recording to the appropriate storage location.

- E) If the investigator/navigator saved the recording in a file on their government owned laptop it is recommended that the investigator delete the folder from their government owned laptop after receiving confirmation from the APS Senior Planning Coordinator that the recording has been received.
  - 1) The purpose of this deletion is to limit the amount of sensitive information contained on the investigator's laptop.
- F) Alternatively, the APS Senior Planning Coordinator can designate a file location for the field staff to upload the recorded material.

## 6.26 Protocol #26: Digital Investigation Records

*Updated October 6, 2016.*

The following protocol provides guidance on how APS Investigators will store digital records.

### VI) Digital Records

- A) APS Investigators are authorized to collect, create, and store digital records during the course of an investigation in compliance with this protocol.
- B) When possible, all digital records will be uploaded to the current case management system used by APS. If these files are unable to be uploaded, they may be stored on an approved electronic device. The storage device will be included with the case file.
- C) Digital records will only be stored on a government issued and owned electronic device. Such devices are CDS, DVDS, External Hard Drives, and Flash Drives.

- D) Investigators may not store investigation information on any personal computer or other personal electronic device.

## **VII) Technical Assistance**

- A) The APS Senior Planning Coordinator will assist investigators with the process described in this section. If issues occur outside of the technical expertise or authority of the APS Senior Planning Coordinator the DAIL IT Manager will be contacted for assistance.

## **VIII) Limited Network Access**

- A) This protocol is written with the expectation that investigators will be doing their work outside of an AHS network environment and will not have regular access to network storage available.

## **IX) Temporary Local Storage**

- A) During the course of an investigation, if an investigator collects or creates a digital record, they will create a digital folder on the Desktop of their computer.

- 1) The investigator will name this folder using the case number for the investigation.
- B) The investigator will place all digital records collected or created during the course of the investigation in this digital folder.
- C) As described in APS Protocol 15 regarding the Investigation Folder, at the conclusion of the investigation a copy of the digital folder will be burned onto a DVD by the investigator and inserted in the Investigation Folder.
- D) At the conclusion of the investigation, the digital folder will be retained on the Desktop of the investigator's computer until it is transferred to the network drive as described in V) below.
  - 1) Digital records and the digital folder will not be deleted by the investigator until it is transferred to the network.
- E) The investigator should be aware that information stored on their laptop's Desktop is not backed up.
- F) The investigator will not password protect or otherwise secure the digital folder.
  - 1) The investigator will rely on the security systems already in place on the computer to protect the contents of the folder.

## **X) Long Term Network Storage**

- A) When the APS Senior Planning Coordinator receives an Investigation Folder, if there is a data disc the coordinator will transfer the data from the disc to network drive.
  - 1) The data will be placed in a folder at:  
I:\DLP\APS - Digital Evidence Archive.
  - 2) The name of the folder in the archive will be the investigation number.
  - 3) By being on the network, the data will be backed up and preserved in a secure location while also accessible to APS staff who may need the evidence for future investigations.
    - (a) Investigators will need to use Citrix to access this archive. If access to Citrix is a problem, the investigator will consult with the APS Senior Planning Coordinator to determine the best way to receive archive data.
- B) The APS Senior Planning Coordinator will notify the investigator that the data has been transferred to the network.
- C) It is recommended that the investigator delete the folder from their local computer after receiving confirmation from the APS

Senior Planning Coordinator that the data has been transferred to the network.

- 1) The purpose of this deletion is to limit the amount of sensitive information contained on the investigator's laptop.



## 6.29 Protocol #29: Requesting Financial or Medical Records

*Updated November 9, 2023.*

The following protocol provides guidance on how APS Investigators and Navigators will request records.

### I) General Guidelines

- A) APS Investigators and Navigators are authorized to request and collect records when necessary in the course of an investigation in compliance with this protocol.
- B) There are two methods of requesting records: Consent Forms and Records Requests.
  - 1) **the APS Consent Form** is signed by the alleged victim or their representative. It relies on the alleged victim's agreement to grant access to various types of records.
  - 2) **Records Request Forms** are not signed by the alleged victim or their representative. They rely on statutory authority to grant access to records.

- C) At all times during assessments and investigations, an alleged victim's autonomy and preferences are to be considered. For this reason, obtaining an APS Consent Form from an alleged victim is always preferable to submitting a Records Request. Additionally, institutions in possession of records are less hesitant to work with APS when an alleged victim has consented to the request.
- D) Both the APS Consent Form and Records Requests should be tailored to limit the time frame and subject matter to what could reasonably be expected to relate to the assessment or investigation.

## **II) Requesting Records**

- A) Explain to the alleged victim or their representative that their cooperation is required to fully assess or investigate their case. Request that they sign the APS Consent Form allowing relevant records requests.
- B) If the alleged victim or their representative refuses or is unable to consent to a records request, consult Protocol 6, Section VI regarding Ability to Investigate, then confer with your supervisor regarding

whether to proceed with a Records Request Form.

- 1) Instances where a Records Request Form may be merited include (but are not limited to) when the alleged victim's guardian or representative is the alleged perpetrator, when the alleged victim cannot express their own wishes, or when an alleged victim is deceased or otherwise incapacitated.

## 6.32 Protocol #32: Staff Meetings

*Updated October 6, 2016.*

The following protocol establish practices for conducting APS staff meetings.

### I) Responsibilities Prior to Staff Meetings

- A) APS employees are always welcome to forward requests for future staff meeting topics to their supervisor.
- B) The APS Management Team will work together to determine the frequency, dates, times, and locations for staff meetings.
- C) The APS Management Team will work together to establish a long-term training schedule and appropriate topics for training.
  - 1) Ideally, the APS Management Team will provide staff with a training outline so that staff members will see what topics will be trained in the next 6-12 months.
- D) The Division Director or the APS Director will review in advance all trainings provided by outside trainers to ensure that the topic is appropriate for

APS staff and a good use of limited training time.

- 1) The director or assistant director will inform the APS Senior Planning Coordinator of any visual aids necessary for the meeting.
- E) The APS Director will set the agenda for meetings and will forward any materials to be reviewed at meetings to staff no later than three business days prior to the meeting.
- F) The APS Senior Planning Coordinator will obtain necessary visual aids for the staff meeting, such as projectors.
- G) APS employees will review topic materials forwarded from the APS Management Team prior to the meeting so that they may fully engage in the discussions.

## **II) Responsibilities During the Meeting**

- A) APS employees will make a concerted effort to attend staff meetings and will avoid scheduling conflicts.
- B) The APS director will be the meeting facilitator, with all members of the APS Management Team contributing to discussions and assisting with keeping the discussions productive and focused on the topic at hand.

- 1) Although APS will use outside trainers for some topics, the expectation is that the APS Management Team will be the primary trainers for staff.
- C) The APS Senior Planning Coordinator will set up and run any visual aids needed at the meeting.
- D) APS employees will be fully present in the meetings and will limit outside distractions to only activities that are truly time sensitive.
- E) Side discussions will be kept to a minimum to limit distractions.

### **III) Responsibilities After the Meeting**

- A) Supervisors will ensure any staff member who missed the meeting receives the appropriate updates and trainings.
- B) The APS Management Team will check in on lessons learned after each staff meeting to ensure that the organization continues to refine what works best in this forum.

## 6.33 Protocol #33: Intake Voicemails

### **Protocol #33: Intake Voicemails**

*Updated October 6, 2016.*

The following protocol details expectations for returning voice mail messages and a contingency plan for processing messages when demand exceeds intake resources.

#### **I) Voice Mail Return Call Expectations**

- A) As per APS Policy IV B) 4), voice mail messages left with intake staff are to be returned by the end of the next business day.
  - 1) Periods of high call volume or reduced staffing levels may result in intake staff falling behind in returning calls.
  - 2) Intake staff will notify the Assistant Director if they are not able to return call as described above. The Assistant Director will activate the contingency plan below.

## II) Return Call Contingency Plan

- A) The APS Assistant Director will assist as needed to address the backlog of voice mails when identified.
- B) If at the end of the business day there remain unreturned messages from the previous business day, the APS Assistant Director will alert the APS Director of the status of returned calls. If the Assistant Director is unavailable, the Director will be notified.
  - 1) The APS Assistant Director and APS Director will coordinate their schedules to prioritize returning calls until such time as all outstanding voice mail messages have been returned.
- C) If there are still voice mails out of compliance after the APS Director and APS Assistant Director have prioritized returning calls for two business days, the APS Director will alert the DLP Director.
  - 1) The DLP Director will then coordinate their schedule to prioritize returning calls until all outstanding voice mail messages have been returned.
  - 2) The DLP Director will notify the Commissioner and Commissioner's administrative staff so that they will be



prepared to manage  
complaints/concerns from callers.

### **6.36 Protocol #36: Forgoing Notification Letters to AV Regarding Decision to Screen Out**

*Updated February 24, 2017.*

The following protocol provides direction when to forgo Alleged Victim notification letters for screened out reports.

#### **I) Notice requirement.**

- A) Title 33 Section 6906 (a)(1)(A) requires the AV be notified in the event that APS decides not to investigate after receiving a report.
- B) Title 33 Section 6904 provides the elements that should be included in a report. When those elements have not been included, it is incomplete and therefore not a report.

#### **II) Exceptions.**

- A) There are circumstances where sending a letter to the AV would be counter-

productive or could increase risk to the alleged victim. Under the following circumstances the alleged victim will not be sent a letter notifying them that a report was made that it will not be investigated:

- 1) When the alleged victim lives with the alleged perpetrator and notification could create a safety risk.
  - 2) When a complaint is made against a facility or facility staff, and the reporter is not a member of facility staff, and the report is being referred to S&C. In these circumstances, sending a notice to the alleged victim will alert the facility of a future S&C investigation.
  - 3) When the alleged victim's cognitive impairment precludes their ability to understand the letter. If the alleged victim has a representative, and the representative is not the alleged perpetrator, the notification will be sent to them.
  - 4) When the alleged victim is deceased.
  - 5) When the alleged victim has a guardian, and either the guardian or the alleged victim has requested notification be sent to the guardian.
- B) When the report is not complete in accordance with section 6904 then a report has not been received and the

alleged victim will not be sent a notification letter stating that a report was received.

### **III) Documentation.**

- A) When notification is not sent to the alleged victim, intake staff will document the reason by creating a note in the APS IMS.

### **6.37 Protocol #37: Sharing Information when the Alleged Victim is not a Vulnerable Adult**

*Signed May 1, 2017.*

*Reviewed October 24, 2022.*

The following protocol describes limitations of sharing information when the alleged victim is not a vulnerable adult.

#### **I) Authority to Share Information.**

- A) Title 33 Chapter 69 allows APS to share information in specific circumstances to prevent the abuse, neglect, and exploitation of vulnerable adults.
- B) APS Policy Manual Section IV allows APS to share “sufficient information, as requested, to provide appropriate services” when making referrals. This authority to share only extends to situations where the alleged victim is a vulnerable adult.
- C) APS does not have statutory authority to make referrals or share information when the alleged victim is not a vulnerable adult. DAIL Legal has determined that sharing

information when the alleged victim is not a vulnerable adult could be a violation of state and/or federal privacy laws because APS' statutory authority to share information doesn't extend to them.

## **II) Referrals at Intake when the Alleged Victim is not a Vulnerable Adult.**

- A) Except as noted below, when Intake Staff process reports where it is determined that the alleged victim is not a vulnerable adult, they will not make referrals for services or protections for the alleged victim and they will not share information about the alleged victim outside of the division.
  - 1) If the report includes information relevant to another investigative body, such as law enforcement, Office of Professional Regulation, Medicaid Fraud Unit, etc., Intake Staff will make a referral to these organizations. Intake Staff will provide these organizations with sufficient information, as requested, to facilitate their investigation. Intake staff will not provide information on the identity of the reporter absent a court order.
- B) Intake Staff will include information about 211 in the notification letters mailed to the

reporter and alleged victim. The notification letter will include a recommendation of contacting 211 to learn about the services available to the alleged victim.

### **III) Referrals at Investigation when the Alleged Victim is not a Vulnerable Adult.**

- A) Except as noted below, if an investigator determines that the alleged victim is not a vulnerable adult during an investigation or field screen, they will not make referrals for the alleged victim and they will not share information about the alleged victim outside of the division.
  - 1) If the investigator gathers information relevant to another investigative body, such as law enforcement, Office of Professional Regulation, Medicaid Fraud Unit, etc., the investigator will make a referral to these organizations. The investigator will provide these organizations with sufficient information, as requested, to facilitate their investigation. The investigator will not provide information on the identity of the reporter absent a court order.
  - 2) The investigator may make referrals and share information about the

alleged victim outside the division if the alleged victim consents to the release using APS Form 2 regarding sharing information.

## 6.38 Protocol #38: Processing of Reports

### **Protocol #38: Processing of Reports**

*Updated April 3, 2019.*

This protocol provides DLP (Division of Licensing and Protection) Adult Protective Services staff with instructions and guidance on the processing of reports.

#### **I) General Intake Process**

- A) All intakes received via APS reporting line or other methods (email, fax, etc.) that allege potential abuse, neglect, or exploitation, including self-reported incidents, will be entered into the APS IMS in a timely manner, preferably on the date received. Timeliness requirements are fully indicated in APS Policy manual section IV (B) (8).
  - 1) When possible, the original report will be maintained attached as a note or



copied into the Incident Description field.

- B) At time of entry, or first review of web report, Intake staff will screen report for ongoing risk and mark the report for priority review as appropriate. Indicators of risk include but are not limited to:
  - 1) Any circumstance that would trigger an Immediacy Rating at assignment of Level 1 or Level 2 as described in APS Policy manual section IV (E) (1).
  - 2) Indications at the time of report that the AV's life is in danger
  - 3) Indications at the time of report that there may be a limited window of time to gather evidence.
- C) Intake staff will conduct follow-up necessary establish the allegation, complete contact information, and determine the vulnerability of the AV.
  - 1) Actions taken for the purpose of follow up should be documented in the screening comments section and prefaced by the date, time, and worker initials.
- D) Intake staff will search Associated Intakes and link report to other reports with the same AP or the same AV.
- E) Intake staff will search Associated Investigations and link report to

investigations containing the same AP or the same AV.

- F) Once the allegation is established and the vulnerability information collected Intake staff will submit the report for screening.
  - 1) If vulnerability information is not available, the report will be indicated for the need of a field screen prior to submitting for screening.
- G) Screening staff will indicate Screening Decision and the Immediacy Rating and route report back to Intake staff for completion of report.
  - 1) If a field screen is needed screening staff will request the field screen as per Protocol 2.
  - 2) If a maltreatment or scam assessments are needed screening staff will send the request to the appropriate Service Navigator.
- H) Intake staff will complete report by completing the following tasks:
  - 1) Generating allegation(s) (For screened-in reports)
  - 2) Ensuring completion of screening
  - 3) Generating notification letters or noting why letter are not generated as per protocol 36.
  - 4) Conducting any necessary referrals

- 5) Assigning the report to the appropriate Field Supervisor (For screened-in reports).

## II) Screening Workflow

- A) General screening workflow
  - 1) Once an intake has gathered and sufficient information for a screening decision and the intake has been prepared the intake worker will change the Screening Queue field to “Needs Screening Review”
  - 2) Screening staff will review cases with Screening Queue field to “Needs Screening Review” and will set the “Decision” and “Resolution” fields as appropriate.
    - (a) Screening Worker will also set appropriate values to:
      - (i) “Screening Worker”
      - (ii) “Report Status”
      - (iii) “Field Work Type”
      - (iv) “Field Worker”
      - (v) “Assign as Field Screen”
      - (vi) “Screening Decision Date”
      - (vii) “Screening Decision Time”

- (b) For screened-in reports screening staff will also set:
    - (i) “Immediacy Rating”
    - (ii) “Investigation Queue”
    - (iii) “Investigator”
  - 3) If screening staff does not consider the information sufficient for a screening decision they will note the required information in the Screening Comments field and set Screening Queue field to “Follow-up Needed”. Once concerns are addressed by the intake worker the intake worker will return to step 1.
  - 4) Once the Screening staff have made a screening decision they will set the Screening Queue field to “Screened”
  - 5) Intake staff will complete cases marked with a decision including preparing letters and conducting referrals.
- B) Field Screen screening workflow
- 1) In the event a field screen is necessary, the screening worker will set the Assign Field Screen field to “Yes”, set Screening Queue field to “Field screen”, note the field screen request in the “Decision Comments”, and request the screen from the

appropriate Field Supervisor or Service Navigator.

- 2) If the screening worker has questions of the intake worker he or she will she will note the required information in the Screening Comments field and set Screening Queue field to “Follow-up Needed” once concerns are addressed by the intake worker the intake worker will return to step 1.
  - (i) More complicated questions may require an email or phone call.
- 3) Once the field screen is complete and the information for the field screen returned to the screening worker the screening worker will enter the information as per protocol #2 proceed with screening as per A) above.
- 4) Intake staff will complete cases marked with a decision including preparing letters and conducting referrals.

### **6.39 Protocol #39: Identifying and Reporting Problems and Complaints Regarding APS**

*Updated February 27, 2017.*

This protocol provides guidance on how to notify APS leadership of any concerns about APS operations or complaints received from the public or partners about APS.

#### **I) Purpose**

- A) Employees are APS' best asset in identifying areas for improvement. This protocol will establish a systemic method for employees to provide input both on overall operations and when specific reports or investigations may not have been processed optimally.

#### **II) Identifying Problems and Complaints**

- A) Any complaint about APS or a potential problem cited or identified to an APS staff member should be recorded with as many specific data and known facts as possible.

These data and facts should include, where possible:

- 1) Intake and/or Investigation APS IMS Case Numbers
- 2) Allegations from the intake or investigation, to include
  - (a) Dates
  - (b) Form of maltreatment
  - (c) Recommendations
  - (d) Services and referrals
  - (e) Other outcomes
- 3) Name(s) of case participants, to include
  - (a) Reporter
  - (b) Alleged Victim
  - (c) Alleged Perpetrator
  - (d) Other Participants
- 4) Timeframes that occurred in terms of the corresponding operating protocol (see “Chapter 3: Policy and Procedure Manual” and “Chapter 4: APS Protocols” in the Vermont APS Guidebook for operating timeframes), to include
  - (a) Hours:
    - (i) Complete Intakes

- (ii) Level 1 Risk Assessment Intakes
- (b) Business Days:
  - (i) Incomplete Intakes
  - (ii) Level 2 or 3 Risk Assessment Intakes
  - (iii) Field Screens
  - (iv) Registry Checks
  - (v) Mandatory Reports
- (c) Calendar Days:
  - (i) Investigations
  - (ii) Commissioner Reviews
  - (iii) Commissioner Hearing
  - (iv) Appeal to Human Services Board
- (d) Years:
  - (i) Retention of Records

B) Where an existing or potential *problem* regarding APS' operations or policy is identified by APS, the staff member who identifies the potential problem should record:

- (a) If the problem has resulted events or outcomes that hurt an alleged victim (AV)
- (b) If the problem generated from APS operations (or failure to act) has placed the AV at risk



- (c) If a potential problem is due to a failure to follow APS statute, policy or protocol; or, if there is a problem that existing operating guidelines do not address
- C) Any APS Staff receiving or involved in a *complaint* should, where possible, record:
- 1) Dates, times and locations of any incident that presents a problem or generated a complaint against APS
  - 2) Prior associated intakes or investigations, to include
    - (a) The APS IMS case numbers
    - (b) Participant names and contact information
    - (c) Allegations
    - (d) Dates
    - (e) Outcomes
  - 3) Where a complaint against APS is made, the APS staff member who receives the complaint should also record, where possible:
    - (a) The name and position of the individual making the complaint
    - (b) Date complaint was received, and date of the initial incident or

- problem reported occurred or was identified
- (c) If the individual making the complaint has first-hand knowledge of the information they are citing or if they are relaying information second- or third-hand
  - (d) If this individual has made other complaints about APS in the past, and any outcomes associated with prior complaints
  - (e) Direct quotes from the individual making the complaint.
- D) For both complaints received and also potential problems identified, APS Staff should refrain from recording opinions about complaints or editorializing about APS operations or outcomes that are not based on facts. Every attempt should be made to verify the veracity and completeness of information being presented by APS staff.

### **III) Reporting Identified Problems and Complaints**

- A) All identified problems and complaints should be recorded by the APS staff member per Section (I) of this protocol and relayed in writing to the direct

supervisor of that staff member. Reports will be delivered exclusively to direct supervisor unless,

- 1) The direct supervisor is on leave and unavailable, and the complaint or potential problem is time-sensitive and cannot wait for the direct supervisor's return. In these instances, the report should be delivered to the acting supervisor in the direct supervisor's absence.
  - 2) The complaint or potential problem is about or involving the direct supervisor. In these instances, the report should be delivered with the next level of supervision, i.e., the direct supervisor's acting supervisor.
- B) The direct supervisor of the APS staff member delivering the report will be responsible for reviewing the report and verifying and augmenting any information to include, where possible:
- 1) Confirmation or correction of all facts and data being presented
  - 2) Inclusion of related information from their own supervisory oversight or the involvement of other members of that supervisor's team.

- 3) Determination if follow-on action or protocol needs to be created or amended.
- C) For all reports that do not present a time-sensitive risk, within four (4) business days of receiving a complaint or identified problem from a direct report, the supervisor will deliver their completed, written review to their direct supervisor. In cases where that direct supervisor is the APS Director, the APS Assistant Director will share their own assessment of the supervisor's report to the Director of DLP within 2 (two) business days. In cases that are time-sensitive, the direct supervisor will make a phone call to the APS Director, and if failing to make contact there, the DLP Director, and discuss needed contingency measures.

#### **IV) Processing and Responding to Complaints and Identified Problems**

- A) After an APS staff report has been reviewed by a direct supervisor and delivered to the APS Director and/or the DLP Director, the APS Leadership Committee will discuss the report findings at the next leadership meeting. In response to the complaint or identified

problem, the APS Leadership Committee will determine if

- 1) Any protocol needs to be revised or created
  - 2) Any response needs to be made from a complaint received
  - 3) Any additional referrals or services are needed for an AV
  - 4) Any additional information or feedback is required from the APS staff member delivering the report.
- B) Any new or revised protocol, or remediating action, will be addressed within ten (10) business days, or prior to the next APS Leadership Committee meeting, whichever comes first. Any follow-on action or changes to protocol will be discussed at the next APS Leadership Committee meeting.

## **6.41 Protocol #41: Second Letters to the Alleged Perpetrator**

*Updated March 30, 2017.*

This protocol documents the processes by which APS will review investigations that are recommended for substantiation but do not result in an appeal to the DAIL Commissioner.

### **I) Authority**

- A) Hearings and appeals requirements are established in 33 V.S.A. §6906 and 3 V.S.A. § 3091(f); V.R.A.P. 4, 13.

### **II) Matters Recommended for Substantiation on Registry Cases with No Appeal**

- A) In accordance with APS Policy and Procedure Manual Section XIV, the DAIL Commissioner has designated the Division Director as their designee to review recommendations for substantiation when a hearing is not requested to the DAIL Commissioner.

- B) The APS Senior Planning Coordinator will provide the Investigation Folder to the Division Director when an investigation with a recommendation for substantiation has been completed, the alleged perpetrator has been notified of the outcome of the investigation via AP Letter #1, and the 14 day window for requesting a hearing with the Commissioner has closed.
  - 1) The coordinator will provide the director with the Investigation Folder on or around 20 days after the mailing of AP Letter #1 to ensure that any request for an appeal to DAIL Legal has been received.
- C) The Division Director will review the recommendation of substantiation and complete the following, as appropriate, within 10 business days.
  - 1) If the director accepts APS' recommendation for substantiation, the director will indicate acceptance of the recommendations and direct the preparation of AP Letter #2a via certified mail.
  - 2) If the director overturns APS' recommendation for substantiation, the director direct the preparation of AP Letter #2r to the alleged perpetrator via certified mail

- 3) The coordinator will track the outcome of these reviews for reporting in accordance with APS Protocol #13 regarding recurring reports.
- D) If the Division Director accepts APS' recommendation for substantiation, and the alleged perpetrator does not appeal the recommendation to the Human Services Board (HSB) within 30 calendar days from the date of AP Letter #2a, the Coordinator shall:
- 1) Prepare and mail AP Letter #3 to the alleged perpetrator.
  - 2) Record the perpetrator's name in the Adult Abuse Registry, with an effective date identical to the date of AP Letter #2a.
  - 3) Notify the alleged perpetrator's current employer via the process established in APS Protocol 10 regarding employer notification of registry addition.
  - 4) Place the Investigation Folder in the APS paper file system.

### **III) Non-Registry Cases**

- A) The designees for receiving recommendations on non-registry cases are the Division Director, Director of APS, and/or Senior Policy & Implementation Analyst.



- B) In the event of a review request, the designee conducting the review shall not have prior involvement in the preparation of the recommendation.
- C) The procedures for the desk review are described in Protocol 12.

## 6.42 Protocol #42: Instructions for APS Form 1

*Updated October 6, 2017.*

This protocol provides instructions for how to complete APS Form 1: Authorization for APS to Receive Information.

### I) Form Instructions

- A) The APS investigator will review the form and its purpose with the named individual or their representative, to include reviewing the information on the back.
- B) The APS Investigator will complete the form with the named individual or their representative.
- C) The investigator will write the first and last name of the named individual whose records APS will receive in the box marked "Name:".
- D) The investigator will write the date of birth of the named individual whose records APS will receive in the box marked "Date of Birth:".
- E) If the named individual has a guardian or other legal representative, the investigator

will enter their first and last name in the box marked “Legal Representative Name (if applicable)”. If there is no legal representative, this box will be left empty or will have “NA” entered.

- F) The investigator will discuss the records types necessary to conduct the investigation with the named individual or their representative. The investigator will then check off boxes for any types of records the named individual or their representative agrees APS will receive.
- G) The investigator will discuss with the named individual or their representative the organizations that may have records pertinent to the investigation.
  - 1) If the named individual or their representative wants the release applicable to all organizations, the investigator will mark the box next to “To any and all organizations/providers holding the above type of records.”
  - 2) If the named individual or their representative wants the release applicable to a single organization, the investigator will mark the box next to “Only to the following organization/provider” and will then write in the name of the

- organization/provider in the space provided.
- (a) If the named individual or their representative wants to name specific organizations the release applies to, a separate form will be completed for each organization.
- 3) The investigator will discuss with the named individual or their representative whether any records should be excluded from the release.
- (a) If the named individual or their representative wants no exclusions, the investigator will mark the box next to “There are no exclusions to my authorization.”
  - (b) If the named individual or their representative wants exclusions, the investigator will mark the box next to “The following records are excluded:” and will then list the types of records to be excluded in the space provided.
- H) The investigator will discuss to the named individual or their representative about the time period that would have records relevant to the APS investigation. The investigator will write the dates in the space next to “This authorization extends only to the following time period”.

- I) The investigator will review the now completed form with the named individual or their representative.
- J) The investigator will ask the named individual or their representative to sign and date the form in the box labeled “Signature of Person Whose Records APS is Authorized to Receive (or Their Legal Representative) and Date”.
- K) The investigator will print their name, sign, and date the form in the box labeled “Name, Signature of APS Staff Member Assisting with the Preparation of this Form, and Date”.
- L) The investigator will provide the named individual or their representative with the carbon copy of the form.
- M) The investigator will retain the original, which will be used to access records and will be included in the Investigation Folder.

## **6.43 Protocol #43: Instructions for APS Form 2**

*Updated May 1, 2017.*

This protocol provides instructions for how to complete APS Form 2.

### **I) Authority to Share Information**

- A) APS Protocol 37, Part III, describes when to use APS Form 2.
  - 1) APS Form 2 documents when an APS investigator has permission to make a referral for an individual who is not a vulnerable adult.
- B) As described in Protocol 37, this form is not required to share information with another investigative body, such as but not limited to law enforcement, Attorney General's Office, and Office of Professional Regulation.

## II) Form Instructions

- A) The APS investigator will review the form and its purpose with the individual involved, to include reviewing the information on the back.
- B) The APS Investigator will complete the form with the individual whose information APS will share.
- C) The investigator will write the first and last name of the individual the investigator will make a referral for in the box marked “Name:”.
- D) The investigator will write the date of birth of the individual named in the box marked “Date of Birth:”.
- E) The investigator will check the appropriate boxes if the referral will be made to the local area agency on aging of the local designated agency.
- F) The investigator will list any other organizations appropriate for a referral based on the individual’s circumstances.
- G) The investigator will ask the individual to sign in the box marked “Signature of Person Whose Information APS is Authorized to Share Listed Above:”.
  - 1) Ideally, the investigator would already know if the individual intends to refuse to sign. If they refuse to sign, no referrals will be made except for the

investigative bodies described in I)C) above.

- H) The investigator will write the date the form was signed by the individual in the box marked “Date:”.
- I) The investigator will print their name and then sign in the box marked “Name and Signature of APS Staff Member Assisting with the Preparation of this Form:”.
- J) The investigator will provide the individual with the carbon copy of completed form.
- K) The completed form will be processed as follows:
  - 1) For investigations, the investigator will place the original copy of the completed form in the Investigative Folder.
  - 2) For field screens, the investigator will scan the original copy of the completed form (either with scanner or by taking a photograph with their state issued phone) and include it in their email response to intake staff. Intake staff will attach the document to the report in the APS IMS.



## **6.44 Protocol #44: Instructions for APS Form 3**

*Updated February 1, 2017.*

This protocol provides instructions on the completion of APS Form 3: Declination of Services.

### **I) Purpose**

- A) Whenever an alleged victim who is a vulnerable adult with decisional capacity expresses directly or indirectly that they do not want to participate in APS processes, the investigator involved will complete APS Form 3, Declination of Services.
  - 1) This form will only be completed when the alleged victim has decisional capacity.

### **II) Instructions: Alleged Victim Agrees to Complete Form**

- A) The investigator involved will review the form with the alleged victim in person and will fill out the form for the alleged victim. The alleged victim will provide their own signature.

- B) The investigator will write in the date they are meeting with the alleged victim and the investigation number(s).
  - 1) If there are more than one investigation, list all investigation numbers. Only one form needs to be completed.
- C) The investigator will review the alleged victim's rights and answer any questions regarding their rights.
- D) The investigator will express to the alleged victim that they can choose what aspects of the APS services they would like to refuse. The investigator will check the boxes available in accordance with the alleged victim's wishes.
- E) The investigator will inquire as to the alleged victim's reason for the declination. Completing this portion on the form is optional. If, however, the investigator believes that continuing the investigation will harm the alleged victim and the investigation should be halted, a reason needs to be documented.
- F) The investigator will inquire to the alleged victim's preferences. This portion on the form is optional. If, however, the investigator intends to follow APS Protocol #22 and not involve the alleged perpetrator in the investigation, the alleged victim needs to indicate that they do not

want the alleged perpetrator to be contacted.

- G) The investigator will write in the alleged victim's full name and the date. The investigator will ask the alleged victim to sign.
  - 1) If the alleged victim reviews the form with the investigator but refuses to sign, document that in the Staff Notes at the bottom.
- H) The investigator will write in their own name and signature.
- I) The original will be kept by the investigator and included in the Investigation Folder.
- J) The copy will be provided to the alleged victim unless doing so would put them at risk.

### **III) Instructions: Alleged Victim Declines to Complete Form**

- A) The investigator involved will use this form to document the declination.
- B) The investigator will complete the form to the best of their ability as described above based on the feedback, possibly hostile feedback, from the alleged victim. This will include the investigator signing and dating the form.

- C) The investigator will document their interaction with the alleged victim in the Staff Notes, to include a statement that the alleged victim refused to participate and that the form was completed by the investigator.
  - 1) Example: “Mr. Smith refused to let me enter his home and told me to get off his property.”
  - 2) Example: “After explaining to Mr. Smith why I was there, he told me to leave him and his family alone, get out of his house, and not come back.”
  - 3) As much as possible, the narrative will be neutral, with care taken to not be perceived as insulting to the alleged victim.
- D) The original will be kept by the investigator and included in the Investigation Folder.
- E) The carbon copy will be provided to the alleged victim via mail unless doing so would put them at risk.

#### **IV) Reproduction**

- A) Form 3 will be reproduced by the BGS Print Shop, with the APS Senior Planning Coordinator responsible for ordering and distribution of the form to field staff.

## 6.45 Protocol #45: Caregiver Determination

*Updated October 30, 2023.*

This protocol provides additional information to assist in determining if an individual is a caregiver.

### I) Purpose

- A) In order for APS to recommend a case for registry substantiation, APS must have reason to believe that the alleged perpetrator would be a caregiver.
- B) Existing statute and policy language sometimes requires APS staff to determine when it is more likely than not that someone is a caregiver, especially in situations where the alleged perpetrator claims not to be responsible for the care of the alleged victim and/or the alleged perpetrator is a family member.

### II) Caregiver Definition

- A) Caregiver is defined in 33 V.S.A. § 6902.

“Caregiver” means:

(A) a worker or employee in a facility or program that provides care to an adult who is an elder or has a disability and who has assumed the responsibility voluntarily, by contract, or by an order of the court; or

(B) a person with a designated responsibility for providing care to a person that is required because of the person’s age or disability.

- B) This definition of caregiver creates a spectrum of caregiving. While many caregivers will clearly fall under this definition, others will require investigators to make an argument for or against a caregiver-determination based on the facts of the case. Investigators who feel unsure about their interpretation of those facts should consult their supervisor for a second opinion.

### **III) Caregiver Spectrum**

- A) Always Caregivers:
- 1) Persons paid by a facility or program.

- 2) Persons paid by alleged victim or a private party with evidence of scope of work or agreed duties.
  - 3) Persons designated a caregiver by a court, to include but not limited to being a court appointed guardian, to the alleged victim.
  - 4) Persons granted power of attorney by the alleged victim (for matters within the scope of the powers granted).
- B) Fact-Dependent Caregivers
- 1) Persons paid by alleged victim or private party with no documentation or proof of scope of work or agreed duties.
    - (a) Compensation is not always monetary in nature; sometimes it takes the form of housing, use of a vehicle, etc.
    - (b) Compensations should be at least somewhat proportional to the allegedly agreed-upon work.
  - 2) Persons who serve as rent payees.
  - 3) Persons who voluntarily assumed an uncompensated caregiving role.
  - 4) Persons granted unregulated financial access by the alleged victim (i.e. given and accepted a checkbook, debit card, online account access, etc.)

- 5) Professional caregivers whose alleged abuse, neglect, or exploitation did not occur in their professional capacity.
- C) Scenarios Not Rising to the Level of Caregiver
- 1) Unpaid persons in same residence.
  - 2) Persons who pick up an alleged victim from a hospital or medical care (i.e. alleged victim was “released into their care”).
  - 3) Persons whose caretaking actions were passing acts of kindness.



**6.46 Protocol #46: Instructions for APS  
Form 4, Investigative Records Release  
Log**

*Updated May 23, 2019.*

This protocol provides instructions on the completion of APS Form 4, Investigative Release Log.

- I) Following update, the relevant information from this protocol has been combined into Protocol 8**

## 6.47 Protocol #47: Anonymous Witnesses

*Updated May 1, 2017.*

*Reviewed October 24, 2022.*

This protocol offers guidance on the use of anonymous witnesses in APS investigations.

### I) Background

- A) In accordance with 33 V.S.A. §6906 (c), when APS makes a recommendation of substantiation against an alleged perpetrator, APS must provide the alleged perpetrator the evidence that is the basis of this recommendation so that the alleged perpetrator may dispute APS' recommendation.
- B) When an alleged perpetrator appeals a recommendation of substantiation to the Human Services Board or the Vermont Supreme Court, investigation materials gathered during the course of the investigation, to include the identity of the reporter and the identities of witnesses, must be provided to the alleged

perpetrator so that they may dispute APS' recommendation.

- C) Disability Rights Vermont (DRVT), as the state's federally designated protection and advocacy organization, is authorized access to investigation materials gathered during the course of the investigation, to include the identity of the reporter and the identities of witnesses, when DRVT is representing either the alleged perpetrator or the alleged victim.

## **II) Prohibition on Guarantees of Anonymity or Use of Anonymous Witnesses**

The Division Director has determined that, in general, providing evidence obtained from a witness whose identity is withheld does not give the alleged perpetrator a full opportunity to dispute that evidence and does not provide the Commissioner or designee sufficient information to determine the credibility of that witness when considering the substantiation during the Commissioner review process. As such:

- A) APS staff shall make no guarantees of anonymity to any participant of an APS investigation, to include the reporter.
- B) In all investigative reports, APS Investigators shall include the identity of

all witnesses whose testimony is described therein, except in exceptional circumstances as approved by the APS Director in consultation with the DAIL Legal Unit.

## 6.52 Protocol #52: Coordination and Approval of APS Training to the Public

*Updated Nov 8, 2023.*

This protocol offers guidance on the coordination and approval of training to the public on APS.

### I) Authority

- A) As required by 33 V.S. A §6912, within available appropriations, APS is required to provide training to the public regarding the abuse, neglect, and exploitation of vulnerable adults and how to report it.

### II) Ongoing Training

- A) In recognition that training to the public is one of APS' primary statutory responsibilities, the APS Director will ensure there is ongoing training opportunities available, which will include:
  - 1) The APS Assistant Director will provide or delegate training on

mandatory reporting requirements via remote technology

- 2) Additional trainings outside of Waterbury will be conducted as time allows and with the approval and coordination of the APS Director as described in A)above.
- 3) The Division Director and APS Director will also ensure there is training online via video streaming or other comparable service.

### **III) Coordination and Approval of Other Training**

- A) The APS Assistant Director will be responsible for scheduling and coordinating all training to the public that is not ongoing.
- B) Any APS staff member that receives a request to provide APS training will forward the request to the APS Assistant Director, with a courtesy copy to their supervisor (if applicable). The APS Assistant Director will then determine the appropriate response to the request, to include if APS will participate, who from APS staff will participate, and what will be presented.
  - 1) All presentations will be reviewed in advance by the assistant director.

- C) APS staff are not permitted to participate in their official capacity in any public event related to their work that has not been approved by the APS Director.

### **6.53 Protocol #53: Coordination and Approval of Interorganizational Cooperation**

*Updated March 9, 2017.*

This protocol provides guidance on the coordination and approval of cooperation with other government entities.

#### **I) Authority**

- A) As allowed by 33 V.S. A §6911, APS may cooperate with other organizations for the purpose of preventing or investigating allegations of the abuse, neglect, and exploitation of vulnerable adults.

#### **II) Coordination Not Required for Specific Reports or Investigations**

- A) As described in APS Protocol #8 regarding the distribution of APS information, APS staff may work jointly with other organizations for the purpose of preventing or investigating allegations of the abuse, neglect, and exploitation of vulnerable adults. This work does not



require additional coordination or approval

### **III) Coordination and Approval**

- A) All discussions with other organizations outside the Division of Licensing and Protection regarding APS practices, protocols, policy, statute, future cooperation, or memorandums of understanding that are not tied to a specific APS investigation must be coordinated with the APS Director in advance and may not occur without their approval.
- B) Any APS staff member that receives a request to discuss the above will forward the request to the APS Director, with a courtesy copy to their supervisor (if applicable). The Division Director and APS Director will then determine the appropriate response to the request, to include if APS will participate, who from APS staff will participate, and what will be discussed.
- C) APS staff are not permitted to participate in their official capacity in any interorganizational discussions not related to a specific investigation without the approval of the APS Director.

- D) The Division Director will determine whether to inform the Commissioner or other parties of the discussions.

#### **IV) Memoranda of Understanding**

- A) The Division Director and Assistant Division Director will be responsible for developing, maintaining, and enforcing any memorandum of understanding developed between APS and other organizations.
- B) Memoranda of understanding with other organizations will be signed by the DAIL Commissioner unless specifically delegated to the Division Director or APS Director by the commissioner.

#### **V) Records**

- A) The APS Director will be responsible for maintaining records regarding discussions described above and all memorandum of understanding between APS and other organizations.

## 6.54 Protocol #54: Requests for Correspondence

*Updated June 9, 2017.*

This protocol provides information on processing requests for APS correspondence previously delivered.

### I) Authority.

- A) 33 V.S.A. §6911 establishes who is authorized to receive APS information, to include information from the Adult Abuse Registry.

### II) Access to Correspondence.

- A) Any participant in an APS report or investigation may receive a copy of correspondence previously sent to them.
  - 1) If an individual contacts APS to ask if they are on the Adult Abuse Registry, statute does not allow for self-checks of the registry. We can, however, send the individual any correspondence

previously sent to them, which could include notification of registry placement.

- B) If the request is for information pertaining to an already concluded report or investigation, the APS Senior Planning Coordinator will mail the requested documents.
- C) If the request is for information pertaining to an ongoing report or investigation, the APS Director will determine the appropriate person to respond to the request.

### **III) Requests for Reports by Reporters**

- A) In the event a reporter, or someone purporting to be the reporter, requests a copy of the report they submitted they will be informed that once received and processed reports cannot be released and that notification of the screening decision will be sent to the reporter.

## 6.55 Protocol #55: Joint Financial Accounts

*October 26, 2017.*

*Reviewed October 24, 2022.*

This protocol provides guidance for financial exploitation investigations where the alleged perpetrator is a joint account owner of the alleged victim.

### I) Authority

- A) Existing statutory and policy language does not address how to consider financial exploitation investigations where the funds in question are maintained in a financial account jointly owned by the alleged perpetrator and alleged victim.
- B) This protocol is being created so that APS will consistently process reports and conduct investigations with allegations that an alleged perpetrator is financially exploiting an alleged victim by accessing funds in a jointly owned account.
- C) This protocol does not pertain to accounts where the alleged perpetrator is a representative payee on an account but not a joint owner of it.

- 1) When an account lists a representative payee, it is expected that that representative payee is using the account solely for the benefit of the account owner.

## **II) Joint Ownership of Accounts and Screening**

- A) As described in Part III below, determining if financial exploitation occurred when the alleged victim and alleged perpetrator have a joint account will require a nuanced examination appropriate for an investigation. As a result, when intake staff receive a report alleging financial exploitation, and the financial exploitation is alleged to have occurred in a financial account jointly owned by the alleged victim and alleged perpetrator, intake staff will not screen out the report solely because the alleged perpetrator is accessing a joint account. Intake staff may screen out the report if other information is gathered such that the criteria is not met for screening in the report for investigation.

### **III) Joint Ownership of Accounts and Investigations**

- A) If an alleged perpetrator accesses funds in an account that is jointly owned by both the alleged perpetrator and the alleged victim, that alone is not justification for substantiation of exploitation. This is true even if the alleged victim deposits the majority or all of the funds into the account. This is true even if the alleged perpetrator used the funds in the account only for their benefit.
- B) Although accessing funds in a joint account alone is not enough to substantiate an alleged perpetrator, the investigator should, at a minimum, consider the following related to the joint account:
  - 1) Did the alleged perpetrator use undue influence, harassment, duress, or fraud to become a joint account owner?
    - (a) If “Yes,” the alleged perpetrator may be considered to have met the conditions of exploitation laid out at 33 VSA 6902 (6)(B).
  - 2) Did the alleged perpetrator use undue influence, harassment, duress, or fraud to transfer assets into the joint account?

- (a) If “Yes,” the alleged perpetrator may be considered to have met the conditions of exploitation laid out at 33 VSA 6902 (6)(B).
- 3) Did the alleged perpetrator violate any legally binding agreements with the alleged victim or their representative regarding how the joint account should be used?
  - (a) If “Yes,” the alleged perpetrator may be considered to have met the conditions of exploitation laid out at 33 VSA 6902 (6)(A).
  - (b) Agreements with the alleged perpetrator may be formal (such as but not limited to guardianship agreements and power of attorney agreements) or informal (such as but not limited to verbal or written agreements between the alleged perpetrator and alleged victim).



## **6.59 Protocol #59: Verification of Authority and ability to Investigate**

*May 12, 2022.*

This protocol describes the process by which investigators will verify APS' authority and ability to investigate and to discontinue investigations when the scope of the investigation is outside APS' authority.

### **II) Statutory Authority for APS to Make Decisions to Investigate**

- A) 33 VSA §6904 authorizes APS to investigate reports pursuant to alleged abuse, neglect or exploitation of a vulnerable adult wherein:
  - 1) 33 VSA §6902 (14) provides APS the definition of a vulnerable adult, and
  - 2) 33 VSA §6902 (1), (6) or (7) provides APS the definition of abuse, neglect, or exploitation.
- B) 33 VSA §6906(a)(1)(A) requires APS provide notification after a decision not to investigate a report.

### III) Verifying Authority to Investigate

- A) APS acknowledges that reports may be screened in with imperfect information provided by reporters. Subsequently, investigations may commence with imperfect information and an investigator may determine in the course of their investigation that details provided in a report may have been mischaracterized, incomplete, or inaccurate. In these instances, if the reported details in question were the basis for statutory authority to investigate, the investigator must reassess APS' authority to investigate.
- B) Investigators that suspect they may *not* have the authority to continue an investigation must document and provide to their supervisor the following:
  - 1) Verification that contact with the reporter was made, and when.
  - 2) Verification that a face-to-face meeting with the alleged victim was completed, and when.
  - 3) Information about the Alleged Victim's vulnerability status provided either in a report to APS or in the course of the investigation that has, or has not, changed.

- 4) Information about the allegations of abuse, neglect, or exploitation provided either in a report to APS or in the course of the investigation that has, or has not, changed.
  - 5) How new information may preclude APS' authority to investigate allegations because either, a) the alleged victim is not a vulnerable adult; and/or b) the allegations of maltreatment do not meet the definition or Vermont Supreme Court interpretation of abuse, neglect, or exploitation.
  - 6) The likelihood that the alleged perpetrator is aware of the investigation.
  - 7) If the AV is determined to be vulnerable, the investigator should complete a Services and Protections Summary Report for the AV.
- C) Field Supervisors will review investigator's documented evidence in B) above, and if they agree with the assessment will forward the request to the APS Director with their assent indicated.
- 1) If the Field Supervisor recommends discontinuation of the investigation, they will also include a recommendation regarding what participants should receive notice.

- D) The APS Director after reviewing the Field Supervisor's recommendation may discontinue an investigation or request further action to determine APS' authority to investigate.
- 1) The director will provide a response to the supervisor and investigator via email.
  - 2) If the investigation is discontinued, the APS Director may determine which participants should or should not receive notice.

#### **IV) Verifying Ability to Investigate**

- A) Some incidents lack an investigative path forward absent the participation of the AV. In those instances, APS will terminate the investigation so as to avoid unnecessary disruption to the AV.
- B) Investigators that believe they may *not* have the ability to carry an investigation forward must document and provide to their supervisor the following:
- 1) Verification that contact with the reporter was made, and when.
  - 2) Verification that a face-to-face meeting with the alleged victim was completed, and when.
    - (a) If face-to-face was not complete the attempt should be described.

- 3) Verification that the AV has declined or lacks the ability to participate in the investigation.
  - 4) Verification that no witnesses to the incident have been identified which have not yet been interviewed.
    - (a) Additionally, verification that no evidence which would provide an investigatory path has been identified.
  - 5) If the AV is determined to be vulnerable, the investigator should complete a Services and Protections Summary for the AV or note the declination.
- C) Field Supervisors will review investigator's documented evidence in B) above, and if they agree with the assessment will forward the request to the APS Director with their assent indicated.
- 1) If the Field Supervisor recommends discontinuation of the investigation, they will also include a recommendation regarding what participants should receive notice.
- D) The APS Director after reviewing the Field Supervisor's recommendation may discontinue an investigation or request further action to determine APS' authority to investigate.

- 1) The director will provide a response to the supervisor and investigator via email.
- 2) If the investigation is discontinued, the APS Director may determine which participants should or should not receive notice.

## **V) Documentation and Notification**

- A) If a decision is made to discontinue an investigation because APS does not have authority or ability to investigate, as described above in II) or III), the following actions will be taken:
  - 1) The APS Director will upload the decision chain as a note in the corresponding investigation within the IMS.
    - (a) The director's decision will be available for review by the Department or in connection with any file review process.
  - 2) The APS Director will complete the investigation in the IMS by changing the investigation status to "Complete," the determination to "Admin Closure – Investigation Discontinued," and entering a completion date and time.

- 3) The APS Assistant Director, or their delegate, will provide notifications that the investigation was discontinued.
  - (a) The alleged victim will be notified that the investigation was discontinued and there will be no further action by APS.
  - (b) The reporter(s) will be notified that the investigation was discontinued, there will be no further action by APS, and the Reporter(s) can make a request to the commissioner for a review.
- B. If the APS Director determined that the alleged perpetrator should be notified, the alleged perpetrator will be notified that the investigation was discontinued and there will be no further action by APS.

## 6.60 Protocol #60: Transferring Investigations

*January 3, 2019.*

The following procedures will be followed when APS transfers investigations, internally or externally, due the unsuitability for customary APS staff to proceed.

### I) Receipt of Report.

- A) If Intake receives a report under the following conditions, they will notify the APS Director for possible reassignment to an alternate APS Field Supervisor or to an external investigative body:
- 1) The report was made by an APS staff member.
  - 2) The report's AP, AV, or reporter are a family member, friend, or known close associate of an APS staff member.
  - 3) The report includes a complaint of a prior APS investigation with overlapping participants.
  - 4) Intake observes a discrepancy between the current report and a past investigation with overlapping



participants (e.g., the same allegations were reported and opened in the past, but the past investigation did not address the allegations).

- 5) Any other report that may present a conflict of interest to APS due to a propensity for media coverage, scrutiny of other State or social entities, or other known potential undue influence on an investigative outcome.
  - 6) Known resource issues due to a Field Supervisor or investigator(s) on leave.
- B) The APS Director will discuss appropriate assignment with both APS Field Supervisors and inform the DLP Director and APS Assistant Director if alternate assignments or external referrals are made.
- C) If the APS Director determines there is not conflict of interest or need for alternate assignment, the APS Director will inform the APS Assistant Director and the report(s) will be processed and screened using the same standards as all reports to APS.

## II) Alternate Assignment.

- A) When a report as described above is screened in for alternate assignment (either an alternate APS Field Supervisor's team, designated investigator, or external investigative body), it will *not* be assigned in accordance with APS Protocol #3. Instead, the APS Director will assign the investigation to an investigator after consultation with the appropriate APS Field Supervisor.
- B) If an investigation is already open for investigation and a conflict of interest becomes known, the APS Director may reassign the investigation [per I) B) above].
- C) If an investigator's full caseload needs to be reassigned, the APS Director will work with that investigator's Field Supervisor to redistribute cases among other team members. If that team is facing additional staff shortages, the APS Director may work with both Field Supervisors to redistribute cases across both teams.
- D) Except as noted in this protocol, alternate assigned investigations to an APS investigator will be processed using the same standards as all other APS investigations, to include offering the alleged perpetrator an opportunity for an interview.

### **III) Communication of Alternate Assignments.**

- A) Because investigations with alternate assignments may include numerous sensitive elements that require discretion, details to staff regarding the investigation will be kept to a minimum. If the alternate assignment is due to staff being temporarily on leave, the APS Director will communicate leave status to that investigator's Field Supervisor and any anticipated known length of absence. No protected health information (PHI) or details of other potential investigations involving APS will be communicated or discussed among APS staff.

## 6.61 Protocol #61: Reports by APS Staff

*March 19, 2019.*

The following procedures will be followed when APS staff make reports to APS.

### I) APS Staff Reporting Requirements

- A) APS staff may become aware of allegations of maltreatment of vulnerable adults through personal or professional activities.
- B) APS staff are not mandated reporters and are therefore not covered by mandated reporter requirements described in SS 6903.
- C) Reports made by APS staff should be made through one of the standard reporting options and using the guidelines described in <https://dlp.vermont.gov/aps/make-aps-report>
- D) Reports made by APS staff may be subject to transfer or alternate handling of reports and investigations as described in Protocol 60 minimize the likelihood of conflict of interest.
  - 1) If the APS Director determines there is not conflict of interest or need for alternate assignment, the APS Director

will inform the APS Assistant Director and the report(s) will be processed and screened using the same standards as all reports to APS.

- E) If an APS staff person has reason to believe that an individual would benefit from a referral to an appropriate agency or program, the APS staff may make that referral or provide the agency or program information to the individual in need.
- F) APS staff will never advise a reporter whether a report needs to be made or not.
- G) If an APS staff member, other than an intake specialist or the APS Assistant Director, is asked to make a report on behalf of another individual, the APS staff member should inform that individual they are not positioned to take reports or give screening advice and direct them to the appropriate reporting channels.

## 6.62 Protocol #62: Guardianship and RFAs

*Updated October 10, 2022.*

The objective of this protocol is to provide APS investigators with good practices for determining if guardianship is necessary and the processes for establishing guardianship.

### 1) **Guardianship**

- A) Unlike other protective services arranged for by Adult Protective Services (APS), a guardianship, by definition, removes rights, privileges, and a sense of personal autonomy from a vulnerable adult.
- B) The Department of Disabilities, Aging, and Independent Living (DAAIL) is committed to providing vulnerable adults with the greatest amount of autonomy and self-determination possible.
- C) APS will only consider petitioning for guardianship in situations that meet the criteria for guardianship

established at 14 V.S.A. 3061(1) or 18 V.S.A. 9302(5).

- D) APS Field Staff filing a petition should only request the minimum powers necessary to ensure the welfare, health, and safety of a vulnerable adult.
- E) A healthcare Power of Attorney and a Financial Power of Attorney combined provide the appointed individual(s) more power than an appointed Guardian.
  - 1. If a Medical Power of Attorney and a Financial Power of Attorney are in place and properly administered, a guardianship should not be considered.

## **2) When Appropriate**

- A) APS Field Staff should consider Guardianship under the following circumstances:
  - 1. The current Power of Attorney or Guardian is no longer fulfilling their role as

- an individual appointed for making informed decisions for the welfare, health, or safety of a vulnerable adult.
2. The current Power of Attorney or Guardian is abusing, neglecting, or exploiting a vulnerable adult.
  3. The current Power of Attorney or Guardian lacks the capacity to fulfill their role as an individual appointed for making informed decisions for the welfare, health, or safety of a vulnerable adult.
  4. The vulnerable adult does not have a Power of Attorney or Guardianship and no longer has the capacity to make informed decisions for the welfare, health, or safety for themselves.

### **3) Determining a Guardian**

- A) When an APS Field Staff encounters a vulnerable adult and the investigator reasonably



believes that the vulnerable adult is likely to suffer future abuse, neglect, or exploitation without a guardian or without modification to, or termination of, an existing guardianship or Power of Attorney, Field Staff should consider:

1. If there is a family member of the vulnerable adult that is willing and capable of being appointed as the vulnerable adult's appointed guardian.
2. If there is another trusted individual that is willing and capable of being appointed as the vulnerable adult's appointed guardian
3. APS Field Staff should encourage the family member or trusted individual to petition for guardianship where there is no immediate concern for continued abuse, neglect, or exploitation of the vulnerable adult.
4. APS Field Staff will petition for or complete an

affidavit in support of a petition for guardianship in all instances where continued abuse, neglect, or exploitation is a concern.

#### **4) Private Guardian Vs. Public Guardian**

- A) If the vulnerable adult has the means to pay for guardianship services, the APS Investigator will first recommend a private guardian before recommending a public guardianship.
- B) If the vulnerable adult does not have family or another trusted individual that is willing and capable of being appointed as the vulnerable adult's guardian and the vulnerable adult does not have the means to pay for guardianship, APS Field Staff should consider a public guardian.

#### **5) Consultations**

- A) When APS Field Staff identifies Guardianship as a required need and will be completing a petition or affidavit in support of a petition, APS Field staff will consult with DAIL Legal.

1. APS Field Staff will comply with the guidance of DAIL Legal.
  2. If DAIL Legal does not support APS Field Staff's determination that a guardianship is needed, Field Staff may only proceed with the approval of the Commissioner.
    - a) APS Field Staff may request an appeal of DAIL Legal's decision to the Commissioner through their supervisor to the Director of APS.
- B) When APS Field Staff identifies Public Guardianship as a required need, APS Field Staff will consult with Office of Public Guardianship.
  1. APS Field Staff will have the support of OPG.
  2. APS Field Staff will ensure that the petition or Affidavit in support of a petition for guardianship is consistent with the recommendations of OPG.

**6) Participating in Guardianship Hearings**

- A) APS Field Staff may participate in guardianship hearings as a factual witness when the petitioner for guardianship is not a member of APS
  - 1. Prior to participating in guardianship hearings as a factual witness, APS Field Staff will consult with DAIL Legal and comply with the guidance of DAIL Legal to the extent allowed by their oath to the court and the direction of the Judge.

## **Requesting Relief-from-Abuse Temporary Orders (RFAs)**

- 1) An RFA should be filed when the need is identified.
- 2) Due to the time constraints present when seeking relief from abuse, field staff should inform DAIL Legal when RFA filings are made, but do not need to wait for a reply from DAIL Legal prior to completing the filing.



## **7 DLP Protocols**

Like APS Protocols, DLP Protocols are procedural guidance for the day-to-day operations of the entire Division of Licensing and Protection. Because operating platforms and requirements can change frequently, it is important to adhere to the most current protocol. The following protocols were current and active as of December 1, 2023. For any protocols that have been amended or added following that date, disregard those included herein and refer to the latest signed and active protocol(s).

## 7.1 DLP Protocol #1: Performance Management

*Updated November 15, 2022.*

The following procedures provide guidance on Performance Management for employees.

### I) Authority

- A) Nothing in this protocol shall supersede Vermont State Employee Association Contracts, Department of Human Resources Policy and Procedure Manuals, or AHS/ DAIL Policies.
  - 1) If there is conflict between this protocol and the aforementioned documents, the protocol will defer to their guidance.
- B) The primary source document for conducting performance evaluations will be “A Guide to the State Performance Management System,” published by the Department of Human Resources.

### II) Responsibilities

- A) It is the responsibility of supervisors to ensure that every employee within the division receives performance management as laid out in this protocol.



### III) Evaluations

- A) Every staff member will receive a probationary evaluation, as necessary, and annual evaluations every year.
  - 1) Exceptions may only be made with the approval of the division director prior to that year's annual evaluation due date.
- B) All evaluations will be signed by the division director, either as the appointing authority or as the direct supervisor.
  - 1) Draft evaluations are to be emailed to the division director within 20 days of the close of the evaluation period.
  - 2) Draft evaluations will include all supervisor and reviewer comments added electronically.
  - 3) The division director will add comments, print, sign, and return to the reviewer or supervisor.
  - 4) Where the division director is the direct supervisor, the DAIL Commissioner will sign the evaluation as appointing authority.
  - 5) The appropriate component director may sign as appointing authority with the DAIL Commissioner's approval in the event the division director is not available.

- C) The supervisor will provide the performance evaluation in a one-on-one meeting with the employee.
  - 1) Only complete evaluations with all signatures will be provided to employees.
    - (a) Draft evaluations will not be provided to employees.
  - 2) The supervisor will ensure evaluations are presented to employees in accordance with contract timelines.
    - (a) Probationary evaluations will be presented to the employee before the end of the six-month probationary period.
    - (b) Annual evaluations will be presented to the employee within 45 days of the end of the performance period.
  - 3) Exceptions may be made for the one-on-one meeting with the approval of the division director or appropriate component director.
  - 4) The supervisor will provide the employee with the original evaluation with signatures.
  - 5) The supervisor will retain a copy of the original evaluation and return it to the appropriate admin section so that the evaluation will be submitted to HR and

added to the employee's personnel folder.

- D) The supervisor will consider the employee's performance in meeting their development plan, if one exists, as well as any established rating criteria by DLP leadership in determining the overall appropriate evaluation rating.
- E) See "Phase III: Performance Review" of "A Guide to the State Performance Management System" for additional information on performance evaluations.

#### **IV) Development Plan**

- A) Development plans are optional for employees. One will be prepared if requested by the employee or anyone within the employee's supervisory chain of command.
  - 1) Ideally the plan will be created within 60 days of the start of a new performance period.
  - 2) The plan is developed collaboratively between the supervisor and the employee, with the supervisor seeking the employee's input.
    - (a) Supervisors will not use the expectations section of the performance evaluation for the development plan because

evaluations are not prepared collaboratively.

- 3) The development plan will be developed either in person, through videoconferencing, or over the phone.
- B) Examples of what to include in the plan:
- 1) Training the employee should participate in.
  - 2) Areas the employee should focus on expanding their skill set or improving performance, to include incorporating measurements when possible.
  - 3) Long-term projects or tasks.
  - 4) Actions the employee should start or stop doing.
- C) The development plan will be documented by the supervisor and shared with the employee.
- 1) The supervisor will determine the appropriate way to document and share with the employee.
  - 2) The plan will be as long or as short as needed.
  - 3) Email memorialization is an acceptable way to document the development plan.
    - (a) Example email to employee, with copy to evaluation signatories:  
“Thank you for meeting with me on April 15, 2015, to discuss your development plan for this coming

period. During our meeting we decided you would attend Training X; will work on improving your skills on Topic Y (we will use Report 1 to monitor your improvement); and will have Important Project Z done by this October 1<sup>st</sup>, 2015.”

- D) See “Phase I: Performance Planning” of “A Guide to the State Performance Management System” for additional information on development plans.

## **V) Feedback**

- A) Every staff member shall receive ongoing feedback and guidance from their supervisor in the performance of their duties.
- B) A feedback session will be provided whenever requested by the employee or anyone within the employee’s supervisory chain of command.
  - 1) The feedback session will be in person or over the phone.
- C) The feedback session will be documented by the supervisor and shared with the employee.
  - 1) Documentation of the feedback session will not be provided to the other signatories of the performance

evaluation unless requested by the employee or the signatories.

2) Email memorialization is an acceptable way to document the feedback.

(a) Example email to employee:

“Thank you for talking with me on the phone on July 15, 2015, for feedback. You are making good progress on the areas identified in your development plan. We agreed that Project Z is progressing ahead of schedule and can now be completed by September 1<sup>st</sup>. We decided that New Emphasis Area A would be added to your development plan.”

D) See “Phase II: Coaching” of “A Guide to the State Performance Management System” for additional information on feedback.

## **VI) Unsatisfactory Performance**

A) The supervisor or reviewer will notify the division director at the first indication that an employee may potentially receive an unsatisfactory rating on their performance evaluation.

- B) A supervisor may not issue an unsatisfactory evaluation without meeting with the Department of Human Resources and following all of the steps they prescribe.

### **7.3 DLP Protocol #3: Delegation of Authority**

*Updated November 15, 2022.*

The following procedures document delegation of authority from the division director and relevant processes

#### **I) State Survey Agency Director**

- A) The S&C Director will serve as the CMS recognized State Survey Agency Director.

#### **II) Invoice Process and Signature Authority**

- A) Invoices will be reviewed and approved prior to submission to the DAIL Business Office for payment.
  - 1) When an invoice is received, a member of the admin staff will review it to determine which billing code to use.
  - 2) Based on the billing code, the admin staff will deliver the invoice to one of the reviewers below.
  - 3) The reviewer will initial and date invoices approved for payment.
  - 4) The reviewer will return the invoice to the admin staff, who will either deliver it to the business office or reroute it for additional review as described below.



- B) In addition to the division director, the following staff are authorized to review and approve invoices:
  - 1) The S&C Director will review invoices for S&C.
  - 2) The APS Director will review invoices for APS.
  - 3) The Long Term Care Licensing Chief will review lodging invoices incurred by surveyors on survey.
- C) In addition to the above review at (B), the Administrative Services Manager will review all IT related invoices.
- D) In addition to the above review at (B), the Division Director will review all invoices over \$5,000.

## 7.4 DLP Protocol #4: Media Contact

*Updated November 15, 2022.*

This protocol describes the process for handling media inquiries

### I) Authority

- A) Nothing in this protocol shall supersede the DAILE Media Relations Protocol.
  - 1) If there is conflict between this protocol and the aforementioned document, the DLP protocol will defer to the DAILE protocol guidance.

### II) Media Contact Process

- A) No division member may respond to media inquiries without the approval of the division director or DAILE Director of Operations.
  - 1) The S&C Director , as State Survey Agency Director, may respond directly to media inquiries regarding S&C without prior approval from the division director.
- B) When contacted by a member of the media, staff will obtain the reporter's name, organization, contact information,

purpose for contacting DLP, and any reporting deadlines.

- C) This information will be forwarded to the division director and appropriate component director immediately via email and will be followed up by phone, teleconference, or in person to ensure the message is received.
  - 1) If the division director or appropriate component director is not available, the information is to be provided to DAIL Director of Operations.
- D) The division director or appropriate component director will ensure the division responds in accordance with the DAIL Media Relations Protocol.
- E) The division director or appropriate component director will submit a media contact summary to the DAIL Director of Operations immediately upon the conclusion of the media contact.

### **III) CMS Notification**

- A) Notify the CMS Regions 1 and 2 Public Affairs Officer if there are media inquiries regarding CMS processes.
  - 1) The Public Affairs Officer is Courtney Porter Jenkins, courtney.Jenkins@cms.hhs.gov, 617-565-1494 (ph), 443-934-3715 (cell)

- B) Although CMS normally relies on the State Survey Agency to respond to media inquiries, the CMS Public Affairs Officer is available to assist.

## 7.5 DLP Protocol #5: Overtime

*Updated November 7, 2022.*

This protocol describes how overtime may be used within the division.

### I) Authority

- A) Nothing in this protocol shall supersede Vermont State Employee Association Contracts, Department of Human Resources Policy and Procedure Manuals, or AHS/ DAIL Policies.
  - 1) If there is conflict between this protocol and the aforementioned documents, the protocol will defer to their guidance.
- B) The primary source document for overtime is Article 24 of the Non-Management Contract.

### II) Responsibilities

- A) It is the responsibility of supervisors to ensure that overtime is processed in the division within the guidelines established in the above documents.

- B) It is the responsibility of the signatories above to ensure supervisors receive this protocol and are meeting these responsibilities. It is also the responsibility of the signatories above to ensure that this protocol is consistent with the aforementioned documents establishing state, agency, and department policies on performance management.

### **III) No Free Overtime**

- A) Except for the division director, all overtime worked will be recorded on the employee's time sheet, and no employees are authorized to work uncompensated overtime.

### **IV) Authorization**

- A) The division director and component directors may assign and authorize overtime.
  - 1) Authorization for overtime will be provided in writing via email.
  - 2) Blanket overtime approval may be approved (Example: "You are approved to work up to 10 hours of overtime per pay period between now and January 1, 2025").

- B) Employees may not authorize their own overtime.

## **V) Requests for Overtime from the Employee**

- A) Requests for overtime from the employee will be submitted in advance via email to the immediate supervisor.
  - 1) The request will follow the chain of command to the appropriate assistant division director for review and/or approval.
    - (a) For the component directors, the division director will review and/or approve overtime requests.
  - 2) The request will include the number of hours proposed for overtime, when it will be worked, the reason for the request, and, if applicable, whether the overtime will be in cash or comp time.

## **VI) Emergency Overtime**

- A) Flex time should be used when an employee needs to extend their workday to ensure the safety of a vulnerable adult or to complete a survey.
- B) When flex time is not an option, employees may work unplanned overtime

to ensure the safety of a vulnerable adult or to complete a survey.

- C) At the first safe opportunity, the employee will notify via email all participants laid out in Section V above of the amount of overtime worked and the circumstances.
- D) If it is of the opinion of the division director or appropriate assistant division director that the circumstances did not warrant emergency overtime, they may provide additional criteria to the employee for future emergency overtime.

## **VII) Compensation**

- A) Per Article 24 sections 4, 5, & 6 of the Collective Bargaining Agreement, the employee's overtime category will determine their overtime rate, whether their overtime should be compensated through cash or comp time, and who makes that determination.



## 7.6 DLP Protocol #6: Joint Adult Protective Services and Survey & Certification Investigations

*Updated November 7, 2022.*

This protocol describes the criteria for joint investigations between APS and S&C, the process for initiating a joint investigation, and practices for conducting joint investigations.

### I) Investigations and Reporting

- A) APS and S&C will each conduct and conclude their own investigations that will need to stand on their own merits.
- B) Each sub-unit will make reports for certain defined types of allegations to the partnering unit when appropriate.
  - 1) All investigators, surveyors, and supervisors will comply with 33 VSA §6903 in regards to mandatory reporting to APS.
  - 2) APS intake staff will refer reports received to S&C in accordance with *APS Policy Manual: Section IV* and as directed by the APS Director.

- 3) Investigators will report any evidence or suspicions of regulatory non-compliance to S&C intake.

## II) Criteria for Joint Investigation

- A) APS and S&C may conduct a joint investigation on an open case only in the instance where all of the following three (3) circumstances occurs:
  - 1) There is evidence that sharing of investigative information and collaborating resources could alter the outcome of the investigation/survey, and
  - 2) A vulnerable adult could be better served and protected through collaborative efforts across units, and
  - 3) DLP leadership has reviewed the case and merits of collaboration and has granted approval *prior* to any joint investigation commencing (see III below).

### **III) Process for Initiating a Joint Investigation**

- A) An investigator, surveyor or supervisor can request an open investigation be considered for joint investigation by doing the following:
  - 1) Reviewing the merits of a joint investigation with their direct supervisor and determining that it meets the first two criteria (as defined in II above) for collaboration, and
  - 2) Presenting the case for collaboration to their appropriate component director.
    - (a) If the component director agrees that a joint investigation is warranted, they will request a joint investigation to the other component director.
    - (b) If both component directors agree a joint investigation is warranted according to the criteria above, there will be a joint investigation.
    - (c) The component directors will determine what information can be shared in any collaborative efforts on a case-by-case basis.

#### **IV) Conducting joint APS and S&C investigations.**

- A) Once approval has been granted to proceed with a joint investigation, surveyors and investigators should adhere to the following practices:
- 1) Investigators and surveyors should only discuss details of the open investigation(s) that are germane to the joint investigation. Investigators and surveyors should take care not to provide information, on or off the record, unrelated to the joint investigation that would bias the investigator or surveyor.
  - 2) Investigators may not cite surveyors in their investigation notes or summary unless the surveyor is a witness to the alleged abuse, neglect, or exploitation.
    - (a) The surveyor will be notified that the interview is on the record and will be documented in the investigation notes and summary.
  - 3) Investigators may cite deficiency statements, plans of corrections, and other public documents produced by S&C without approval of a joint investigation.
  - 4) All personally identifiable information (PII) should be kept to a minimum and

not shared across the Division unless it is necessary for the joint investigation.

- 5) Investigators and surveyors will document the information exchanged during a joint investigation in the survey/investigation notes and/or summary.

## DLP Protocol #7: Telework Agreements

*Updated August 3, 2021.*

“Telework” is a term the State of Vermont has designated for work that is typically performed during business hours in a State office or designated site but is partially or wholly being conducted at an alternate location, usually a home office. This protocol provides baseline standards for all DLP staff to adhere to when working remotely or flexing their time.

### I) Telework Agreements

- A) All remote telework agreements are voluntary between the State of Vermont Department of Disabilities, Aging and Independent Living (DAIL) and individual staff. Agreements must be submitted and approved as a DHR Telework Request, and can begin after 9/1/2021 and may continue **indefinitely**, and must be evaluated, at a minimum, as part of every annual review.

- B) Either party, with two weeks' notice, and without adverse repercussions, can discontinue telecommuting or flexing work hours at any time. Each telework agreement will have the following guidelines that can be modified at the discretion of the teleworker and their supervisor.
- 1) Remote teleworkers are required to return to the Waterbury State Office Complex at least once a month, at the expense of the remote e-worker; however, due to additional operational requirements, the remote e-worker may be required to be in the office beyond the monthly requirement, and the e-worker will be responsible for any expenses incurred.
  - 2) The teleworker agrees to be available during the assigned business hours for communication through such methods as dedicated phone line, voice mail, email, and video conferencing.
  - 3) Teleworker initiated schedule changes must be with advanced approval by the supervisor/manager.

- 4) DAIL will provide a laptop, monitor(s) and any needed and approved ergonomic furniture or special equipment accommodations. DAIL will not typically provide a printer, fax machine, or a copier (unless previously provided as part of regional home-based office); if these are acquired and used, it may be at the expense of the teleworker.
- 5) Each teleworker must provide the ability to destroy or shred documents. They must also have the ability to secure proprietary or sensitive information.
- 6) The teleworker's supervisor will continuously assess the productivity, connectivity and level-of-service of the teleworker, and will provide two weeks advance notice to teleworker if the arrangements outlined in this agreement are not working out as expected, or satisfying the requirements of this plan.
- 7) The duties, obligations, responsibilities, and conditions of the teleworker's employment with DAIL remain



unchanged. The teleworker's benefits will remain the same.

- 8) Work hours and use of sick leave, and approval for use of vacation will conform to State of Vermont, DAIL, and DLP policies and procedures.
- 9) The teleworker agrees to provide a secure location for State of Vermont-owned equipment and materials. All equipment, records, and materials provided by DAIL shall remain State of Vermont property.
- 10) The teleworker agrees to return State of Vermont equipment, records, and materials to the DAIL offices at the Waterbury State Office Complex within one week of termination of employment.
- 11) The teleworker agrees to request and notify the supervisor if taking any amount of vacation, time off, or other leave, or if the teleworker is unable to work due to illness.
- 12) The teleworker will provide status reports to their direct supervisor through an agreed upon format as

requested. Status reports will address how the teleworker is meeting operational requirements through productivity and output, assessing collaboration and connectivity to colleagues and partners, and demonstrating accessibility by DAIL customers.

## **DLP Protocol #8: Accusations against DLP Staff**

*Created July 19, 2023.*

The following protocol provides guidance on how staff should handle accusations of misconduct against themselves or other DLP staff.

### **I) Responsibility**

- A) It is the responsibility of all DLP staff to report certain types of allegations of misconduct to the Department of Human Resources (HR), or to a DLP supervisor so that they might report to HR. These types of reportable allegations are noted in sections II) and III) below. If DLP staff report directly to HR, that DLP staff member may choose, but is not required, to share reports made to HR with a DLP supervisor.
- B) Supervisors who receive a report accusing misconduct of a DLP staff member (including themselves) must either share that report with HR, or the DLP Director

(who will determine if the report must go to HR), or both.

- C) If a supervisor or the DLP Director causes a report to be made to DHR, the DLP Director will inform the DAIL Commissioner of that report.

## **II) Reportable accusations with or without evidence**

- A) The following types of accusations must always be reported to HR or a DLP supervisor, regardless of whether evidence is provided to substantiate the accusation:
  - 1) Hate speech and slurs
  - 2) Threats of violence or intimidation
  - 3) Physical abuse
  - 4) Theft or vandalism
  - 5) Inebriation or illegal substance use while working.

## **III) Reportable accusations with evidence**

- A) The following types of accusations are only required to be reported to HR or a DLP supervisor if there is accompanying evidence that substantiates the accusation:
  - 1) Lying
  - 2) Profane language
  - 3) Disrespectful language
  - 4) Shouting speech and/or angry behavior.

## 8 Mandatory Reporting Instructions

*Simplified training instructions prepared by Clayton Clark, Division of Licensing and Protection Director*

### **Who Are Mandatory Reporters?**

- Any employee or volunteer working with, or responsible for the services of, a vulnerable adult.
- Employees, contractors, and grantees of AHS involved in caregiving.
- Any health, mental health, and dental care professionals.
- Most employees of healthcare organizations, organizations that provide care to vulnerable adults, and schools.
- Law enforcement.

### **Who are Vulnerable Adults?**

- Individuals who are residents of licensed health care facilities.
- Individuals who have a diminished capacity to protect or care for themselves due to disability or the infirmities of aging.

### **When to Report?**

- When a mandatory reporter suspects a vulnerable adult is being abused, neglected, or exploited.

- If the mandatory reporter receives information alleging a vulnerable adult is being abused, neglected, or exploited.

### **How Quickly to Report?**

- Within two business days of suspecting or receiving information.

### **How to Report?**

- Go to [www.dlp.vermont.gov](http://www.dlp.vermont.gov)... web intake, phone, email, fax, and mail
- APS Reporting Line: (800) 564-1612
- [APS@vermont.gov](mailto:APS@vermont.gov)

### **What Happens if I Don't Report?**

- Possibility of fines and placement on the Adult Abuse Registry.

### **Who Do I Contact with Questions?**

- APS Director, John Gordon,  
[john.gordon@vermont.gov](mailto:john.gordon@vermont.gov), (802) 241-9014

### **Where Does APS Get Its Statutory Guidance?**

- 33 VSA Chapter 69
- Expands on the above, to include defining terms like Abuse, Neglect, Exploitation, Caregivers, etc.

## 9 Investigator Safety Considerations

APS Investigator safety is of primary importance in carrying out our mission. Safety begins with being aware of our approach to interviews, our surroundings, and our personal habits. The objective of this protocol is to provide the APS Investigator with good practices for general safety which they should routinely follow when going into the field.

In the performance of the job, APS Investigators frequently encounters people and/or families who are in crisis situations, who may become angry or hostile. Most individuals do not present a danger to the investigator but there can be some instances in which individuals or situations may pose a physical threat.

### HOME AND COMMUNITY-BASED FIELD VISIT GUIDELINES

*Drafted by: DAIL Security Committee*

*Finalized: November 5, 2018*

The Department of Disabilities, Aging and Independent Living (DAIL) is committed to

providing exceptional service, while taking all necessary steps to increase safety for our staff and for the public with whom we interact. This document serves to enhance staff awareness of suggested best safety practices for staff who are carrying out field tasks including assessments, investigations, home visits, or other field work within the community and within the homes of individuals whom DAIL staff visit over the course of their work, but is not intended to be an all-inclusive manual.

## **General Information**

Employee safety is a major consideration for the State of Vermont. The Agency of Human Services maintains an Employee Safety intranet page, including vital resources that staff should be aware of: <https://vermontgov.sharepoint.com/sites/AHSIntra/EmployeeResources/SafetySecurity/Pages/Safety.aspx>

If a safety related issue arises at work, DAIL staff are to consult with their supervisor (call 911 first if an emergency). An incident report must be filed here: <https://sov.d3securityonline.com/VSOC/ealert/default.aspx>



Additionally, DAIL Safety Committee members serve as a valuable resource for consultation on any safety/security related issues:

## **GUIDELINES**

### **I. Pre-Visit Assessment**

DAIL staff should conduct a pre-visit assessment of the meeting location (home, other) to the extent possible and appropriate, by gathering the following information from the individual, their family, or other resources as appropriate:

#### ***Pre-Visit Assessment Checklist:***

1. How many people live at the residence?
2. Who will be there during the scheduled visit?
3. Do people smoke in the house?
4. Where should I park?
5. Is there cell service at the location? Is there a land line?

6. Are there animals in the home? If so, are they running free, are they aggressive? Can they be isolated from the meeting area? Are they vaccinated?
7. Does anyone make anyone else feel unsafe in the home?
8. Are there firearms/other weapons in the house?
9. Have there been any issues with neighbors that could impact my visit? (e.g. disputes, history of abuse, suspected or confirmed drug activity)
10. Is the property easy to find? What are some markers (road signs or color of houses) to look for so I don't get lost?
11. Are there concerns about substance use (alcohol and other drugs) in the household?
12. Are there any concerns about the mental health of anyone in the household?
13. How many cars should I expect to see when I pull in? What color/make?
14. Does your home have good lighting in the doorways, walkway and main areas?
15. Are there any environmental hazards I should know about?

If any of these topics are cause for concern, and you are not comfortable visiting the location, consult with your supervisor to discuss an alternate arrangement (e.g., setting the meeting up elsewhere, bringing another colleague with you, or working with BGS Security or law enforcement personnel if appropriate).

Staff should set up appointments during regular business hours when possible; ideally, the end of the session should remain within normal business hours.

## **II. Dealing with Concerns and Possible High Risk Safety Issues**

DAIL staff may identify specific concerns about conducting home or community-based visits, based on the information initially gathered. If staff have concerns, they should talk with their supervisor. It is normal to have some apprehension going to a new residence for the first time. Staff should feel confident

that all provisions have been made to assure they can conduct their job in a safe environment. Thoughtful planning for the home or community-based visit can help alleviate many adverse situations.

Once a staff member and supervisor have met to discuss possible next steps, a follow up call to the location to discuss alleviating identified concerns may be necessary and appropriate (*ex: new light bulb on front steps, removal of dog to a neighbor's house during visit*). There may also be occasions when calling to gather additional information may provide helpful information before a decision to visit is made.

Sudden, or recent life events, can increase an individual's, or family member's, stress levels. Increased stress can lead to stress-induced behaviors, including hostility, self-medicating and violent behavior. Some examples of stressful life events include:

- Job loss/financial difficulties
- Loss of housing
- Loss of benefits
- Other state or local agency involvement
- Substance abuse
- Legal issues
- Change in custody status
- Change in who resides at property
- Divorce or separation
- Death or serious illness
- Victimization/traumatic event

In many cases, staff concerns can be alleviated with discussion, investigation and further communication with the impacted individuals. Remember, staff are not alone and have a whole team that can help make the right decision when there are concerns about staff safety. If a concern is not alleviated, the supervisor and staff should consult with management to find a mutually agreed upon solution.

### **III. Making the Home or Community Based Visit**

Once a home or community-based visit is scheduled, staff should consider the following:

Being aware of your surroundings is an important facet of safety. Awareness of behavior on a visit is equally important. Paying attention to tone of voice, body language, eye contact, word choice, etc., can help you continually assess behavior and potential actions.

Much of human communication is subtle, and non-verbal. Being aware of non-verbal cues can help you better understand other people. We often ignore intuition, but this is an important factor in assessing individuals and circumstances. Problem solving skills are also important. Make time to read AHS Safety protocols and resources, located on the AHS Intranet:

<https://vermontgov.sharepoint.com/sites/AHSIntra/EmployeeResources/SafetySecurity/Pages/Safety.aspx> Ask your supervisor about anything that isn't clear to you. Know when to ask for help and know when to leave a situation to protect yourself.

- Set up a communication plan with your supervisor, or other office staff, that includes:
  - Development of a formal process (e.g. on your calendar) for alerting supervisor or colleague of the date, time and address of the visit.
  - Establish a check-in and check-out time with your office. Plan for when you will check in post visit (consider cell phone reception).
  - Establish a plan of action when a check out call (i.e. leaving residence) does not occur (e.g. supervisor calls residence/staff member).
  - Establish a plan of action when staff have not checked out and cannot be contacted.
  
- Make a plan regarding travel and transportation that includes:
  - Ensuring your vehicle is appropriately outfitted for weather and road conditions of the location you will be traveling to.
  - Leave the make, and license plate number, of the car you are using, with your supervisor, or office staff.
  - Familiarize yourself with resources in the area that can help if an emergency occurs

- Make sure you have enough gas. Be aware of vehicle maintenance and possible issues. Don't risk breaking down. If you know a vehicle is having a problem, make other arrangements.
- Learn about road conditions (e.g. steep and/or unmaintained road) that could impact your travel. Be aware of weather patterns and forecasts. When possible, have a back-up plan in case of severe weather or poor driving conditions.
- Lock valuables in the trunk of your vehicle before you arrive at the residence.

➤ Attire

- Don't wear excessive jewelry and avoid strongly scented products.
- Take your ID with you, but do not wear your ID cord around your neck.
- Wear functional shoes, that would facilitate a rapid egress if needed.
- Remove or cover religious or political symbols, if possible.
- Bring weather appropriate attire to use as needed (umbrella, gloves).



➤ Arrival

- Observe the safety of the home/neighborhood before stopping or pulling into the driveway
- Be alert. Turn off the radio: look, listen and feel.
- Park in the open, and near a light source that offers the safest walking route, to the location.
- If possible, consider parking on the road/street rather than the driveway and in the direction in which you will leave.
- When possible, locate the home/building, before exiting the car.
- When possible, back your vehicle into parking spaces.
- When you leave your vehicle, know where you are going. Be aware of your surroundings.
- If you are approached, be brief with the person, and continue moving. Do not be drawn into conversations. Be neither overly friendly, nor rude.
- Do not enter the location without a safety plan in place when:
  - Individuals are present who appear intoxicated or impaired
  - There is any type of aggression or violence
  - There are indications of danger or environmental hazards.

- Trust your instincts, leave the location if you feel unsafe.
  - If denied entrance, do not attempt to persuade the individual. Leave and contact supervisor and/or police.
- Entering the Residence
- Observe and listen before knocking on the door.
  - Do not enter if an adult is not present.
  - Leave the home/location if you feel unsafe entering.
  - Ask who is there when you arrive.
  - Position yourself so that you have a clear path to an exit.
  - Identify possible exits.
  - Do not enter basement, or attic.
  - Always be aware of your surroundings.
  - Keep your phone handy.
  - Keep your keys handy so that you don't need to dig for them if you need to leave quickly.
  - Know your location in case you need to call 911.
  - Use non-threatening body language, remain calm and professional.
  - Respect the client and his or her emotions.
  - Listen to your instincts and feelings.
  - Be aware of personal space (don't initiate touch unless necessary and you have

- permission).
- Best practice is for dogs or other pets to be kept in another space or room where they do not have access to you, or to the client, during the visit.
  - Best practice is to not accept food or beverages.
  - When there is a choice, sit in a hard chair rather than upholstered furniture.
  - Be cautious and use common sense.
  - End visit and leave immediately if you feel threatened, or if you notice unlawful or concerning behavior.

### ➤ Establishing Rapport

Establishing rapport is at the root of effective communication. One of the easiest and best methods for establishing rapport, is to listen to what a person is saying. Below are tips that will help facilitate communication:

- Show respect and compassion; use the preferred title.
- Be empathetic.
- Be sensitive to cultural and disability etiquette:
  - Communicating across cultures:  
<https://vermontgov.shar>

epoint.com/sites/AHSIntra/LEP\_DocumentLib/communicating\_across\_cultures.pdf#search=cultural

- Disability communication toolkit:  
<https://healthcareinnovation.vermont.gov/sites/vhcip/files/documents/Disability%20Core%20Competency%20Tool%20Kit.pdf>
- Use people-first language:  
[https://www.cdc.gov/ncehd/ddd/disabilityandhealth/pdf/disabilityposter\\_photos.pdf](https://www.cdc.gov/ncehd/ddd/disabilityandhealth/pdf/disabilityposter_photos.pdf)
- Use self-disclosure sparingly to communicate understanding and to build trust.
- Maintain confidentiality.
- Acknowledge what is being said (e.g. I understand what you are saying; tell me a little more about that, etc.).

- Exiting/Ending a Visit
  - Be alert for hazards or obstacles.
  - Get right into your vehicle, lock doors and start engine, don't open trunk, or rear doors first.
  - Upon leaving have your car keys in hand. Do not linger at the residence to make phones calls or write notes; leave immediately.
  - If unable to leave in the vehicle you arrived in, contact help immediately. Have a plan before you are faced with making an emergency decision.
  
- Additional Considerations
  - When doing a home or community-based visit on the weekend, or outside of normal business office hours, make a plan with a designated support person who will be available by phone at the time of the visit.
  - Consider if interpreters may be needed and make a plan before you visit.

#### **IV. Safety and Health of Staff**

Despite engaging in all best practices of risk mitigation, an event can occur that will create unease, or a dangerous situation, for a staff person. DAIL staff are empowered at all times to make whatever judgment calls they feel are appropriate to ensure their own safety. DAIL management encourages all staff to trust their instincts and will support all decisions to leave a situation if it feels unsafe at any time. Below are some suggestions for conduct in circumstances where a client and/or family member is acting aggressively or agitated:

- Respond calmly with “I” statements
- Acknowledge what was/is being said
- Try to redirect using matter of fact, simple and direct statements
- Try to maintain a three-foot distance away from the agitated person
- Do not touch the person
- Do not turn your back, or stand in front, of the person.

If you are attacked, or in an unsafe situation, use whatever defense

techniques you need to remove yourself from the situation. Once you are at a safe location call for help.

Additional Health Considerations when doing home or community-based visits include:

### Smoking

If you are sensitive to cigarette smoke, plan ahead of time a comfortable strategy for offering to step outside or asking the person not to smoke during the visit.

### Lice/bed bugs

As a precaution, if you are able, stand up during your visit, and do not carry bags, or jackets into the home, if possible. If you must sit, when there is a choice, sit in a hard chair rather than upholstered furniture. If you are aware that a home has a lice and/or bed bug infestation, contact your supervisor to discuss an alternate plan prior to scheduling a visit.

### Illness

Before a visit, if you are sick, or are concerned that a member of the family may be exposed to your illness, determine if it is best to reschedule the visit, or if someone else could do the visit. If you are concerned that you may have been exposed to an illness over the course of your work, you must report it immediately to your supervisor.

### Tips

Keep disinfectant wipes and hand cleaner (e.g. Purell) in your car and/or pocket.

Take only the items necessary for the home visit into the client's home.



## 10 APS Style Guidance

APS intakes, screenings, and investigative summary reports should all have a distinct style that is both professional and accessible to an average reader. APS writing should avoid using judgmental language and “loaded” words; narrative should use objective language and refrain from unnecessary adjectives and adverbs that often imply an expressed opinion. While it is not possible to present explicit rules for this style—the tone, spirit, language biases, and capacities of the writing—there are several elements typical to an APS style of writing that can be standardized and offered as general guidelines in drafting narrative. The following explains the style guidelines for formatting, correct use of grammar, and use of APS-preferred terminology.

### A. Formatting Rules

There are several APS-preferred formatting rules that are not automated in the formatting settings but should be followed when drafting any official APS document. The following formatting rules ask the author to:

- Use italics for a word that is emphasized or examined, or term that is followed by a definition. For example, *italics* is a font style or type setting where letters slant to the right.

- Do not use contractions such as *shouldn't*, *they're*, and *could've*. Spell these out instead (*should not*, *they are*, *could have*).
- Define each acronym the first time it is used, regardless of where it occurs (e.g., main text versus a footnote). When an acronym is defined, it should not be listed as plural. For example, *Adult Protective Services (APS)* is correct; *Adult Protective Services (APSs)* is not.

## Bulleting

The first word of each bullet (or number) should be capitalized, even if the bullet is not a sentence:

- Determine vulnerability
- Identify allegation.

When bulleting a series of items that are sentence fragments, do not include punctuation marks (commas, colons, semi-colons) following the series, with the exception of a period, which should appear after the last item of a bulleted list:

- Intakes
- Investigations
- Referrals
- Appeals.

This rule of no punctuation also applies when bulleting a series of items that is part of an overall sentence. In the following example, the whole structure is one long sentence that was broken down into bullets for clarification.

Example: In support of statutory requirements, APS should:

- Review intakes within 48 hours
- Determine if the alleged victim is a vulnerable adult
- Determine if the allegation meets the statutory definition of abuse, neglect, or exploitation.

When bulleting a series of items that are not parts of overall sentences, but are sentences themselves, use periods to separate sentences within a single bullet, and also include a period at the end of each bullet that is a complete sentence.

Example: As part of APS Law Enforcement protocol:

- Intake staff will immediately notify the Assistant Director for APS when a report is received alleging that a sworn law enforcement officer, while serving in their official capacity, abused, neglected, or exploited a vulnerable adult.

- The Assistant Director for APS will notify the DLP Director within 1 business day of the details of the report.
- The Assistant Director for APS and the DLP Director will review all screening decisions for these reports.

## **B. Formatting Guidelines**

A number of formatting practices do not have explicit rules for use, but should be employed at the discretion of the author where appropriate. These guidelines urge authors to:

- Avoid paragraphs that are too long (more than half a page)
- Keep the narrative as succinct as possible
- Make use of bullets to break-out long narrative passages that include several related items
- Refrain from using adjectives or adverbs unless they are essential for comprehension

- Use graphics to communicate concepts better understood visually, such as tables detailing patterns or changes over time, photographs or other evidence, and data
- Provide clarifying examples where a concept might be confusing or ambiguous.

### **C. Grammar**

Grammar usage in APS documents and reports should be based on the style tenets of the U.S. Government Printing Office Style Manual.<sup>1</sup> This section provides some key grammar rules to follow. This is not a comprehensive list of grammatical rules; rather, it focuses on the grammar rules that are most often violated in documents. While these rules are chosen to address the needs of APS documentation and reports, they also apply to other writing (email, faxes, etc.).

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<sup>1</sup> A complete version of the U.S. Government Printing Office Style Manual can be found at <https://www.gpo.gov/fdsys/pkg/GPO-STYLEMANUAL-2008/pdf/GPO-STYLEMANUAL-2008.pdf>

## **Pronoun Usage**

A pronoun (she, his, it, etc.) must clearly refer to a single, particular noun. It is necessary to avoid vague and ambiguous pronoun references. Ideally, no pronouns are used and people are always referred to by their designation or last name (AP, AV, Anderson). The most common cause of ambiguous pronouns occurs when two people are referred to by pronouns, often in the same sentence or paragraph. For example:

- The reporter said the alleged perpetrator left after he lost his temper.

The ambiguous pronouns and surrounding language should be clarified to make clear who did what:

- The reporter said the alleged perpetrator left after the alleged perpetrator became angry and yelled.

## **Capitalization Rules**

It is not possible to give rules that will cover every potential dilemma in capitalization, but by considering the purpose to be served and the underlying principles, it is possible to attain a considerable degree of uniformity.

Proper names with titles are to be capitalized. Examples include the following:

- Ethan Allen
- Investigator Decker
- Governor Scott.

Derivatives of proper names, including languages. Examples include the following:

- Canadian (of Canada)
- Vermonter (from Vermont)
- English (language).

The official designations of countries, national domains, and their principal administrative divisions are capitalized only if used as part of proper names, as proper names, but not always as proper adjectives. Style requires that “Federal”, in reference to any part of the U.S. Federal government, is always capitalized, whereas government, departments, and agencies are not capitalized unless part of a proper name. Examples include the following:

- The Federal departments and agencies
- Part of the Federal government
- Requirements for government agencies

- Staff at the Agency of Education
- Policy for Vermont and other states
- Specific guidance for state and local government
- Part of Washington County.

Technical terms should not be capitalized, but abbreviations and acronyms should appear in capital letters. Examples include the following:

- Listed requirements include certification and accreditation (C&A).

Collective nouns should not be capitalized. Examples include the following:

- DAIL's website is publicly available on the internet.

## **Punctuation Rules**

Punctuation is used to clarify the meaning of written or printed language. The general principles governing the use of punctuation are:

- If it does not clarify the text, it should be omitted. In the choice and placing of punctuation marks, the sole aim should be to bring out more clearly the author's thought.
- Punctuation should aid reading and prevent misreading.



The following provides specific guidance on the proper use of the most often used (and most often misused) punctuation.

## **Apostrophes and Possessives**

All singular nouns form their possessive case by the addition of an apostrophe and an s. Plural nouns ending in s form their plurals by adding only an apostrophe. Some irregular plurals require both an apostrophe and an s.

- Citizen's, citizens'
- Congress's, Congresses'
- Agency of Human Services' or AHS'.

## **Colon**

The colon is used in the following instances:

- Following a sentence or clause that denotes a bulleted list, such as the sentence leading into this bulleted list
- Following a bulleted sentence or clause that denotes a sub-bullet
- Before a final clause that extends or amplifies preceding matter:

- Protection is not for sale: it is a public service.
- To introduce formally any matter that forms a complete sentence, question, or quotation:
  - The following question came up for discussion: What policy should be adopted?
- In expressing clock time:
  - 8:00 a.m.

## Comma

The comma is used in the following instances:

- Following a prepositional phrase:
  - On the first of March, the AV fell.
- After a complete date:
  - January 10<sup>th</sup>, 2016, was the date David Bowie passed away.
- Before **every** direct quotation of one or more words following an introductory phrase:
  - The AV said, “Help me.”

- To separate two words or figures that might otherwise be misunderstood:
  - Instead of hundreds, thousands of dollars were spent.
  - Instead of 35, 15 caregivers were called.
- To indicate the omission of a word or words:
  - Then the AV had much; now, nothing.
- After each of a series of coordinate qualifying words:
  - Short, swift investigations; but short, complicated investigations.
- In a series of three or more terms with a single conjunction, after each term except the last:
  - Requirements, standards, and guidelines address the management, operational, and technical needs of the Department.
- In a series of three or more **proper** nouns, the last comma is omitted:
  - DLP, DVR and DDSD are Divisions within DAIL.

- Between an introductory modifying phrase and the subject modified:
  - Approached by the AP, she cowered.
- To separate a professional title and a person's proper name:
  - The Director, Clayton Clark, will give the keynote address.

## **Semi-Colon**

The semi-colon is used to separate clauses containing commas:

- Kathy Stubbing, an investigator with APS, is also on the DAIL Security Committee; Deb Tighe, the Senior Planning Coordinator for APS, is also the HIPAA compliance officer.

The semi-colon is also used to separate complete sentences that are too closely related in meaning to be written as separate sentences, and also statements of contrast:

- It is part of the policy; passwords should contain a minimum of eight letters and at least one numerical character.
- Wellsky is the vendor; Wellsky Human Services, the product.

## Hyphens

A hyphen is used to denote a compound word but is not always required to do so. It should be used to denote two or more words as a single unit, where the omission of a hyphen would leave ambiguity. Additionally, the second and tertiary words are never capitalized in a hyphenated word, except where hyphenated words appear in titles:

- Right-of-way
- Chapter 6: Failure-to-Report Penalties

If the compound word is commonly understood as a single concept, it does not require a hyphen and in some instances where the concept is widely understood or denotes a non-literal concept, it can be combined into one word:

- Real estate
- Firewall.

A hyphen is used to avoid doubling a vowel or tripling a consonant, except after the short prefixes “co”, “de”, “pre”, “pro”, and “re”, which are generally written as one word:

- Cooperate
- Anti-inflation
- Cross-section.

Documents do not generally use hyphens to break down multi-syllabic words across multiple lines unless a compound word, with or without a hyphen, is split at the end of a line, in which case a hyphen is added in both instances.

## **Brackets and Parentheses**

Brackets are always used in pairs to enclose interpolations that are not specifically a part of an original quotation, corrections, explanations, omissions, editorial comments, or a caution that an error is reproduced literally.

- It arrived on the 3d [2d] of July
- The report stated, “The conference [lasted] 2 hours”
- The field supervisor [Janice Bradley] asked for a copy of the report.

Parentheses are also used in pairs to provide an abbreviation or acronym that will furthermore be used in the document, or to provide additional information that is not essential to the surrounding narrative.

- This division is part of the Government Printing Office (GPO).
- It will be a final (or near-final) draft.

Parenthetical phrases should appear before the period of the sentence in which they are referencing.

## **Number Rules**

Numbers should be written out in the following circumstances:

- The numbers are one through ten:
  - The Department has five divisions.
- The sentence begins with a number:
  - Twenty-one caregivers worked in the facility.

Number should be written in numeric form in the following circumstances:

- The numbers are beyond ten:
  - The policy consists of 12 sections.
- The numbers are a part of a series of numbers:
  - The AV had 2 cats, 3 dogs, and 5 fish.
- The numbers are referencing other parts of a plan or document:

- Section 4 and Section 5 address caregiving and guardianship needs.
- The numbers express a monetary amount:
  - The AP stole \$5.00
  - The AV found 4 dollars missing.
- The numbers are part of a date or time:
  - The maltreatment occurred on 7 December 2017.

#### **D. Terminology**

Authors should avoid the use of jargon and casual phrases in documents. APS writing should have a formal, professional tone. Nevertheless, it is also important to avoid unnecessarily long or obscure words where simpler and more commonly used words will suffice.

The following table provides a list of the terms and expressions that are likely to be misused, as well as the preferred APS language and guiding principles in choosing terms and expressions:



**Table 6-1. APS-Preferred Terminology**

<b>Undesirable Wording</b>	<b>Suggested Replacement</b>	<b>Explanation</b>
in order to	to	Keep language as succinct as possible
pertaining to, in regard to	regarding	Ibid.
utilize	use	Use simple, exact language
issue	problem, shortcoming	State what is truly meant
This reporter	Ed Fournier, I	Avoid ambiguous references and specify which reporter is being cited.
demo	demonstration	Acronyms that are shortened words are often jargon and are not

		always clear to all readers
best practices	good practices, sound practices	A particular practice has not been proven to be “the best”
Intended, expressed, claimed, etc.	Willfully, purposeful	Use key words from statutory language and definitions
proliferation	growth, spread	Avoid “loaded” words that convey unintended meanings
[policy] and/or [guidelines]	[policy] or [guidelines] or both	Avoid punctuation shortcuts that damage a sentence and lead to confusion or ambiguity
anticipate	expect	“Anticipate” is ambiguous

very	[omit]	Use words and language that convey their own emphasis
therefore	[omit]	“Therefore” should only appear when presenting a long logical argument with several assertions.
starting a sentence with “however”	Nevertheless, but, on the contrary, despite that	“However” means “in whatever way” or “to whatever extent”
currently, now	[omit]	These words must be used with a verb in the present tense and are usually made redundant
Website, Internet	website, internet	Change in capitalization convention

irregardless	regardless, irrespective	Confused tenses and prefixes
fix	correct, solve	Avoid colloquial terms that are inexact
secondly, thirdly, etc.	second, third	“Firstly” is awkward; ensure tenses match
Volunteered to voluntarily accompany the AV	Volunteered to accompany the AV	Do not use the same word repeatedly or in close proximity; make every word count

## Punctuation and Formatting Quotations

The following are some of the more common formatting missteps involving direct quotes and the use of quotation marks, and the customary use and APS-preferred style.

- A. Statements and witness testimony should always include citation. If a citation includes a direct quote, cite the person's name, initials, role, or title, followed by a comma and the quotation. Clarify any ambiguous pronouns by citing the name, title or role in hard brackets within the quote. For example:
  - The reporter said, “I saw him [alleged perpetrator] take his [alleged victim’s] car.”
  - The AV said, “...the money was stolen.”
  - The report noted that the brother, J. Daniels, heard the AP verbally abuse the AV.
- B. Punctuation appears within quotation marks if the punctuation is part of an original quotation that is being cited; if punctuation clarifies language that is

not part of the direct quotations it should appear after the quotation marks:

- The AV asked, “What services are available?”
  - Did the AP hear the AV say, “I want to be left alone...?”
- C. Direct quotations should always be preceded by a comma (before the first quotation marks) to make clear that you are quoting an individual and not editorializing the language being used:
- The AP said the AV suffered from, “Depression.”
- D. The first word (even if it’s a single word) in a quotation should always be capitalized unless it is a fragment from a longer quotation, in which case the lower-case word should be preceded by an ellipsis within the quotation:
- The AP said he was the, “Keeper,” of the AV’s medicine.
  - The AV made a request for, “...financial assistance,” but did not receive a response.

- E. Quotation marks should not be used to emphasize the importance of a word; italicization can serve this purpose, but should be used sparingly or with terms followed by a definition. Quotation marks can technically be used to cite jargon, imply a double entendre, or call into question the validity of a concept or notion, but it is generally a good practice to avoid using quotation marks for this purpose as it often leads to confusion for the reader; quotation marks used in this way often causes the reader to wonder if the language is a direct quote or if the author is editorializing.

**Table 6-2. APS Preferred Usage for Quotation Marks**

Non-Preferred Usage	Preferred Language
The AP said he was “fishing” at the time of the incident.	The AP said he was fishing at the time of the incident, but that is unlikely based on witness accounts.
The AV cited multiple instances when the AP “felt her up”.	The AV cited multiple instances when the AP reached under her shirt and touched her breasts.
The AP claimed to be “depressed” at the time of the incident.	The AP claimed to be depressed at the time of the incident.

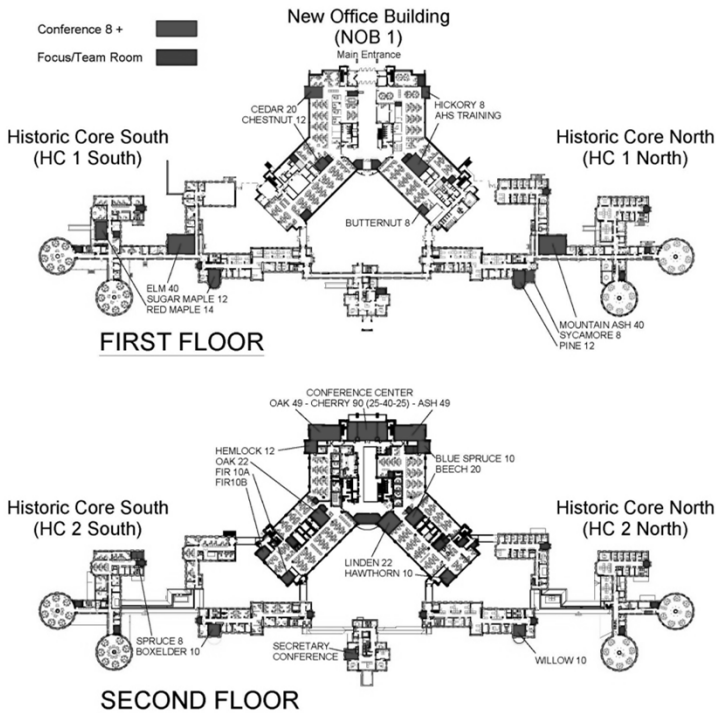


## **11 Vermont APS Office and Staff**

APS is housed within the Division of Licensing and Protection (DLP), with the Assistant Director for APS 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.

## APS Central Office

Vermont's APS Headquarters are located on the Second Floor of the G-Building in the Waterbury State Office Complex at 280 State Drive in Waterbury, Vermont.



## Directions to the Waterbury Sate Office Complex

*(Note: At this time, OnStar, Google maps, and most GPS units do not show State Drive in Waterbury.)*



### **Coming to Waterbury from the North via I89:**

If coming from I89, take Exit 10 (Waterbury Exit) and bear right.

Drive into Waterbury Village. At the second traffic light, take a right onto Park Row– this will bring you down a short street, bear left at the end of this street – this is State Drive and where the Waterbury Complex is located.

Drive until you see the big gray building – this is the main entrance to the complex. Come in the front door of the complex and check in at the security window to the right.

*Note: Please be sure to arrive a few minutes early, and bring a form of ID with you (a driver's license is acceptable).*

**Coming to the Waterbury Complex from the South via I89:**

If coming from I89, take Exit 10 (Waterbury Exit) and bear left.

Drive into Waterbury Village. (Follow the same steps as above)

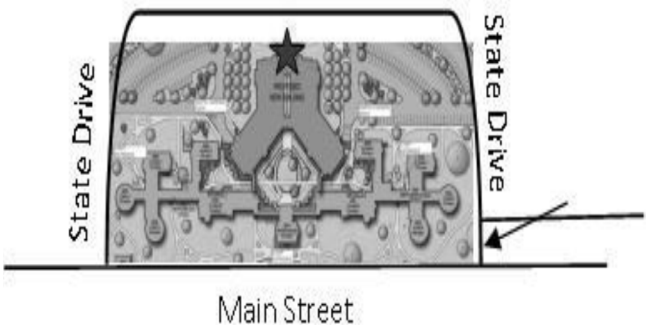
**Coming to the Waterbury Complex from the South via Route 2:**

Take Route 2 to Waterbury Village.

After the intersection of Route 2 and Route 100 (the intersection is just before crossing the bridge into Waterbury), drive approximately 4/10ths of a mile and take the left onto State Drive (this will be the 2nd street on your left, after the intersection)

Continue driving until you see the big gray building – this is the main entrance to the complex. Come in the front door of the complex and check in at the security window to the right.

*Note: Please be sure to arrive a few minutes early, and bring a form of ID with you (a driver's license is acceptable).*



Visitors must enter through security at main entrance (noted by the star in the above map). Visitor names must be submitted to security at least 24 hours before arrival by emailing the visitor's name, date, time of visit, and an State employee escort name and contact phone number to:

BGS.SecurityWaterbury@Vermont.Gov

**NOTE: Please inform first-time visitors that the State Office Complex's address may not be available in their GPS mapping system and ensure they have directions to the complex.**

## **Field Notes**

## Field Notes

## Field Notes



## **Field Notes**

## Field Notes

## Field Notes

## Field Notes

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