

*VERMONT  
ADULT PROTECTIVE SERVICES  
POLICY AND PROCEDURES  
MANUAL*

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## TABLE OF CONTENTS

| TOPIC                                       | SECTION   | PAGE |
|---|---|------|
|   | 10 Guiding Principles for Operation<br>(APS Vision and Mission) | 1    |
| I. Ethical Principles                       |   | 1    |
| A. Guiding Values                           |   | 1    |
| B. Best Practice Guidelines                 |   | 1    |
|   | 20 Intake and Receipt of Reports                                | 3    |
| II. Intake Process                          |   | 3    |
| A. Receipt of Reports                       |   | 3    |
| B. Week-end, Holiday and After Hour Reports |   | 3    |
| C. Information Gathered During Intake       |   | 4    |
| D. Incomplete Reports                       |   | 4    |
| E. Special Considerations Regarding Reports |   | 5    |
|   | 30 Screening Reports  | 6    |
| III. Investigative Screening                |   | 6    |
| A. Screening Process                        |   | 6    |
| B. Reports of Self-Neglect                  |   | 8    |
| C. Referrals to Other State Agencies        |   | 8    |
|   | 40 Intakes Opened for Investigation                             | 10   |
| IV. Case Assignment                         |   | 10   |
| A. Assignment of the Investigator           |   | 10   |
| B. Case Information                         |   | 10   |
| C. Investigative Focus                      |   | 10   |

| TOPIC                                  | SECTION  | PAGE |
|--|--|------|
|  | 50 Confidentiality and Disclosure of Information | 11   |
| V. Release of Information              |  | 11   |
| A. Name of the Reporter                |  | 11   |
| B. The Investigative Report            |  | 11   |
| C. Relevant Case Information           |  | 11   |
|  | 60 Conducting an Investigation                   | 13   |
| VI. Guidelines                         |  | 13   |
| A. APS Code of Ethics                  |  | 13   |
| B. Interviews                          |  | 14   |
| C. The Alleged Perpetrator             |  | 14   |
| D. The Vulnerable Adult                |  | 13   |
| E. Additional Investigative Steps      |  | 15   |
| F. Review and Assessment               |  | 15   |
|  | 70 The Investigative Case File                   | 16   |
| VII. General Guidelines                |  | 16   |
| A. The Case File                       |  | 16   |
| VIII. Outcomes and Closures            |  | 17   |
| A. The Investigative Summary           |  | 17   |
| B. A Recommendation of Unsubstantiated |  | 17   |
| C. A Recommendation of Substantiated   |  | 18   |
| D. Self Neglect                        |  | 18   |
|  | 80 APS Investigative Time Frames                 | 19   |
| IX. Investigations                     |  | 19   |
| A. Guidelines for Case Closures        |  | 19   |

| TOPIC                                   | SECTION                                  | PAGE |
|---|--|------|
|   | 90 Remedial Action                       | 20   |
| X. Provision of Protective Services     |  | 20   |
|   | A. Protective Services                   | 20   |
|   | B. Consent for Protective Services       | 20   |
|   | C. Protective Service Plans              | 20   |
|   | 100 Department Legal Staff               | 21   |
| XI. Utilization of Department Attorneys |  | 21   |
|   | A. Guardianships                         | 21   |
|   | B. Temporary Restraining Orders          | 21   |
|   | C. Other Court Proceedings               | 21   |
|   | D. Communication with Attorneys          | 21   |
|   | E. Staff Testimony and Court Proceedings | 21   |
|   | 110 APS Adult Abuse Registry             | 22   |
| XII. Adult Abuse Registry               |  | 22   |
|   | A. Disclosure of Information             | 22   |
|   | B. Primary Registry Access               | 22   |
|   | C. Additional Access to the Registry     | 23   |
|   | D. Expungment From the Registry          | 23   |
|   | 120 Retention of Records                 | 24   |
| XIII. Guidelines for Records Retention  |  | 24   |
|   | A. Contacts                              | 24   |
|   | B. Intake Log                            | 24   |
|   | C. Unsubstantiated Case Files            | 24   |
|   | D. Substantiated Case Files              | 24   |
|   | E. Adult Abuse Registry Consent Forms    | 24   |
|   | F. Case Correspondents                   | 24   |

## 10 GUIDING PRINCIPLES FOR OPERATION

### APS Vision

Adult Protective Services is dedicated to enhancing the safety of vulnerable adults in Vermont by ensuring equitable access to the services and resources necessary to prevent or end abuse, neglect or exploitation.

### APS Mission

APS uses the tools of central reporting, investigation, protective services, case consultation, registry and community education to offer supports to vulnerable adults in successfully living lives of choice and dignity.

### I. Ethical Principles

A. **Guiding Values:** Every action taken by Adult Protective Services must balance the state's duty to protect the safety of the vulnerable adult with that of the adult's right to competent self-determination.

1. Vulnerable adults have the right to be safe.
2. Vulnerable adults retain all of their civil and constitutional rights unless they have been restricted by court action.
3. Vulnerable adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.
4. Vulnerable adults are presumed to have decision-making capacity unless a court adjudicates otherwise.
5. Vulnerable adults have the right to accept or refuse services and investigative interviews.

### B. Best Practice Guidelines

1. Recognize that the safety interests of the vulnerable adult are the first concern of any intervention.

2. All people should be treated fairly with honesty, caring and respect.
3. When reasonable seek informed consent from the vulnerable adult before coordinating services.
4. Respect the vulnerable adult's right to keep personal information confidential.
5. Avoid imposing personal values on others.
6. Recognize and respect individual, cultural, historical and personal value differences.
7. Present vulnerable adults with information about their choices and options in a form or manner that they can understand.
8. Advocate for the active role of the vulnerable adult in the creation of any service plan.
9. Advocate for the least restrictive service plans that maximize the independence and choice of vulnerable adult's within their limitations of ability, capacity and available resources.
10. If a vulnerable adult's wishes are unknown, advocate for decisions that are in his/her best interest and historically consistent with known desires.
11. Maintain clear and appropriate professional boundaries.

## 20 INTAKE AND RECEIPT OF REPORTS

II. Intake Process: The Intake Specialist or backup staff member receives reports of abuse, neglect and exploitation. Intake is a skilled interview process designed to support an accurate, timely and responsive system for receiving reports of abuse, neglect and exploitation of vulnerable adults. Every effort should be made to obtain from the reporter, the information necessary for effective screening.

### A. Receipt of Reports:

1. Reports to APS shall be received orally or in writing. Mandated Reporters shall report to APS within 48 hours of learning of or receiving information of abuse, neglect or exploitation of a vulnerable adult. (6903a, 6904)
2. A toll free reporting line will be maintained and staffed by APS during normal business hours to receive intakes and emergency contacts.
3. All intakes will be forwarded for screening. The Intake Specialist will track all intakes through the screening process until assigned or closed.
4. The Intake Specialist will assign a case number to all open investigations, log case information into the APS database and track open cases until a final case determination has been made.
5. If the report made to APS is oral, the Intake Specialist shall request that the reporter follow up with a written report within a week. (6904)
6. A log of all incoming reports of abuse, neglect, and exploitation will be maintained. The log should contain the name of the reporter, victim and perpetrator, as well as the date the reporter called. Information in this log is for program management purposes only.

### B. Week-end, Holiday and After Hour Reports

1. When not manned by APS staff, callers to the APS hot line are referred to an emergency screening number for assistance.
2. All after-hours reports made to emergency screening are to be forwarded to APS by the next business day.

3. If it appears that a crime has been committed or if someone appears to be in immediate risk of harm in the judgment of the reporter, emergency-screening personnel will recommend notification of appropriate law enforcement and emergency personnel and include that information in the report submitted to APS.

**C. Information Gathered During Intake:** The Intake Worker will attempt to gather the below information from the reporter.

1. The name, address and phone number of the reporter, the reporter's relationship to the vulnerable adult or situation and whether the reporter wishes to remain anonymous. (6904)
2. The name, address and phone number of the vulnerable adult and those responsible for his or her care. (6904)
3. The age, Date of Birth (DOB), Social Security Number (SSN), and nature of the vulnerable adult's disability. (6904)
4. The nature, extent and time of the suspected abuse, neglect or exploitation. (6904)
5. The name, address, phone number, age, date of birth, and social security number, of the alleged perpetrator and his/her relationship to the vulnerable adult. (6904)
6. The degree of suspected risk for the vulnerable adult, other parties and the investigator. (6904)
7. Other pertinent information. (6904)

**D. Incomplete Reports:**

1. If the initial report lacks important information the Intake Specialist may request that the reporter attempt to obtain additional information.
2. Any subsequent information received by the intake specialist will be forwarded to the screener for inclusion in the initial intake.

## E. Special Considerations Regarding Reports

1. **Resident-to-resident, client-to-client, patient-to-patient reports within institutions:** Agencies and facilities are required to internally investigate incidents of simple misconduct between clients, patients or residents and develop safety plans for individuals in their care. DLP/APS investigations may occur when an incident results in injuries requiring physician treatment, involves nonconsensual sexual activity or demonstrates abusive or exploitive behavior.
2. **Immediate risk of harm or criminal conduct:** When a reporter indicates that a crime has occurred or that a vulnerable adult is at immediate risk of harm the Intake Specialist or Screener shall recommend that the reporter call 911. APS may also choose to initiate a report to law enforcement or other emergency service provider.
3. **Age of Victim or Perpetrator:** APS may investigate an allegation of abuse, neglect or exploitation only if the victim was a vulnerable adult at the time of the incident. The perpetrator may be either a juvenile or an adult at the time of the incident.
  - a. If a vulnerable adult's abuse occurred while a minor SRS will be notified only if the alleged perpetrator is currently working in a profession where children may be at risk.
  - b. SRS will be advised of all reports where either the reported victim or perpetrator is currently under the age of 18.
  - c. All other non-APS cases will be referred directly to the State's Attorney's Office or a Law Enforcement agency.
4. **Reports of abuse, neglect or exploitation by a DA&D employee or Contract employee:** If a report of abuse, neglect or exploitation involves the acts or omissions of the Commissioner or employees of that department, then such reports shall be directed to the secretary of the agency of human services who shall cause the report to be investigated by appropriate staff other than staff of the department. (6904)
5. **If the vulnerable adult has died:** 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 has died as a result of abuse, neglect or exploitation the intake worker or screener shall notify the medical examiner immediately. (6905) (888) 552-2952

## 30 INVESTIGATIVE SCREENING PROCESS

**III. Investigative Screening:** The APS Screener is responsible for evaluating the level of risk and completeness of intakes. The Screener gathers the additional information necessary to make a recommendation to the Program Chief for field investigation or closure. Cases that can not be resolved by the screener as well as cases that appear to meet the Title 33 definitions for vulnerable adult (6902,14), abuse (6902,1), neglect (6902,7) or exploitation (6902,6) will be assigned. The screener's evaluation of the intake is the beginning of the investigative process (6906a).

### A. Screening Process:

1. Pertinent information will be gathered from the reporter, service providers or other knowledgeable parties to complete the intake.
2. The Screener has five working days from receipt of an intake to determine whether that intake will be close as a contact or assigned for field investigation. The Program Chief must approve any extension of this time period.
3. The vulnerability of an alleged victim will be determined within DLP and will take into consideration the available information provided by outside sources and will involve department legal consult when necessary.
4. In determining vulnerability under (6902 14 D i, ii) APS staff will consider the functional impact that an individuals disability has on their ability to protect themselves from the specific abuse, neglect or exploitation alleged in the intake.
5. Intakes that do not meet the statutory definition of abuse, neglect, exploitation or vulnerable adult will be closed as contacts and will not have case numbers assigned.
6. If after consultation with the Program Chief the Screener is unable to determine whether an intake meets statutory definitions the intake will be assigned for investigation.

7. An open case may be closed as a contact if within five working days of assignment the investigator determines that the case does not meet relevant statutory definitions. The Investigator must complete a closure form and advise the Intake Specialist to delete the assigned case number.

8. The Screener will assign cases that appear to meet the statutory definitions of vulnerable adult and abuse, neglect or exploitation to an Investigator.

9. If a new intake is received which contains information that substantially adds to a recently closed contact, the contact information may be attached to the new intake for assignment consideration.

10. Contacts (intakes that are not assigned for investigation) may be retained by APS for 1 year and then destroyed. Contacts are not investigative reports and therefore are not releasable to the public. When possible the Screener will inform the reporter of case assignment or closure.

11. An assigned case may have multiple victims and perpetrators. If no allegations are recommended for substantiation the case may be closed under the assigned number. If however a substantiation is recommended for any of the allegations each perpetrator must be assigned an individual case number and have a separate case closure completed even if there is only one victim.

12. A reporter may request to withdraw an allegation made to APS only when information in the initial report was inaccurate. APS will determine whether or not to open an investigation based on all of the information received.

13. The Screener may coordinate basic protective services when there is evidence of abuse, neglect or exploitation and the victim agrees to accept services. If the Screener has coordinated protective services, the assigned Investigator must be informed of those actions at the time of assignment.

14. APS Case Consultation provided in connection with a screening will be identified on the case closure form. Case consultation includes technical assistance with protective orders, problem solving, service referrals etc.

## B. Reports of Self Neglect:

1. **Self-neglect** is defined as the failure of a person to satisfy their own critical basic needs and to protect him or herself from harm. Basic needs include the provision of food, shelter, clothing, healthcare or management of finances.

2. Reports of self-neglect shall be referred to appropriate community service providers for resolution.

a. Reports of self-neglect by an elder (60 years of age or older) shall be referred to the Area Agency on Aging office that serves the geographic region in which the individual resides.

b. Reports of self-neglect by a vulnerable adult under 60 years of age will be assigned to an APS investigator for appropriate provider referrals as part of a protective services plan.

**C. Referrals to Other State Agencies:** APS shall refer reports of abuse, neglect and exploitation to other appropriate state agencies and organizations when required by statute or cooperative agreement. Normally APS will provide the names of the alleged perpetrator and the vulnerable adult, their contact information, and a synopsis of the incident.

1. **APS Screeners and Investigators** will make appropriate case referrals to other state agencies and law enforcement personnel.

2. **Coordination of investigations** is the responsibility of the assigned Investigative staff. To the extent possible and when indicated, concurrent investigations will be coordinated with Medicaid Fraud, the State's Attorney, Nursing Board and/or law enforcement personnel to avoid duplication of effort and inconvenience to the interviewees. The APS investigator should only focus on the APS mandate and make an independent judgment whether or not to substantiate solely under the program's statute.

3. **Reports of a criminal nature** will be referred to an appropriate law enforcement agency. APS will coordinate as appropriate with law enforcement investigations but shall commence, conduct and conclude its own investigation as soon as possible cognizant of victim safety and the requests of law enforcement.

4. Reports alleging abuse, neglect or exploitation by a licensed professional: In cases where the alleged perpetrator is a licensed individual, notice of the allegation shall be forwarded to the Office of Professional Regulation or other licensing board. The names of mandated reporters who fail to report a known incident of abuse, neglect or exploitation of an elderly or disabled adult should also be forwarded to the appropriate licensing board.

5. Reports involving a Medicaid funded provider shall be referred to the Medicaid Fraud Unit of the Attorney General's office.

6. Incidents of death in which the reporter has reasonable cause to suspect that a death resulted from abuse or neglect shall be forwarded to the medical examiner immediately, regardless of when the death occurred.  
(6905) (1-888-552-2952)

Reportable deaths include the following:

1. All forms of criminal violence, unlawful acts or criminal neglect.
2. All accidents and suicides.
3. All deaths suspected to be caused by drugs, chemicals or poisoning.
4. The sudden death of a person in apparent good health.
5. Deaths during or due to complications of diagnostic or therapeutic procedures.
6. Deaths related to employment.
7. Deaths that occur in any suspicious or unusual manner.

## 40 INTAKES OPENED FOR INVESTIGATION

**IV. Case Assignment:** To the extent possible investigations shall be conducted in a manner so as to protect the alleged victim's safety and preserve case evidence. Intakes opened for investigation will be assigned to an APS Social Worker.

**A. Assignment of the APS Social Worker** will be based upon the following:

1. Town/county in which the alleged victim resides.
2. Availability of staff.
3. Current investigative caseload assignment.
4. Special needs of a case.

**B. Case Information** provided to the Investigator at the time of assignment will include the investigation number, a copy of the intake and copies of any related information gathered.

**C. Investigative Focus** will address the following:

1. Why the alleged victim is considered a vulnerable adult in this case?
2. What is the specific allegation being investigated?
3. What is the relevant statute?
4. What information relevant to the allegations was discovered?  
(Note contradictions and discrepancies.)
5. The recommendation that the allegation be substantiated or unsubstantiated.

## 50 CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

V. **Release of Information:** APS shall adhere to the Adult Abuse Statute and to AHS Rule 96-1, Access to Information. Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows: (6911 a)

A. **Name of the Reporter** and identifying data about the reporter will not be released without the reporter's consent unless ordered by a court. (6911 a 1)

B. **The Investigative Report** shall be disclosed only to: the commissioner or person designated to receive such records; persons assigned by the commissioner to investigate reports; the person reported to have abused, neglected or exploited a vulnerable adult; the vulnerable adult or his or her representative; the office of professional regulation when deemed appropriate by the commissioner; a law enforcement agency, the state's attorney, or the office of the attorney general, when the department believes there may be grounds for criminal prosecution, or in the course of a criminal investigation. 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. (6911 a 1)

C. **Relevant Case Information** may be shared with the reporter, referral sources and service providers, as follows:

1. **Reporter:** After the screening of a report, the reporter may be informed orally or in writing whether or not the report has been assigned for investigation. If an investigation has been opened the reporter may be given the investigator's contact information. When a final determination has been made, APS shall inform the reporter of the outcome of the investigation and any subsequent proceedings. (6906 h) This requirement is waived if the report has been made anonymously or the reporter cannot be reached.

2. **Victim:** The alleged victim or his /her representative shall be informed of the nature of the allegation and the alleged perpetrator's name. Upon completion of the investigation, the alleged victim shall be advised in writing of the outcome of the investigation and any subsequent proceedings. (6906 h) S/he may receive a copy of the report, upon written request and approval of APS.

3. Perpetrator: The alleged perpetrator shall be advised of the allegation(s) made against them and given an opportunity to be interviewed. (6906 5) At the completion of an investigation in which an allegation has not been substantiated the alleged perpetrator shall be advised of the outcome in writing and may request a copy of the Case Closure report, (unless such action would place the alleged victim at risk of harm). If APS recommends substantiation the alleged perpetrator shall be given notice of the recommendation, and the evidence that forms the basis of the recommendation, and shall be notified of how a substantiated report might be used. (6906 5c)

4. Employer of the Perpetrator: When a final determination has been made, and if the allegation is substantiated, the current employer of the perpetrator shall be informed of the result of the investigation and any subsequent proceedings. (6906 h) Notification will only occur if APS knows of the current employer.

## 60 CONDUCTING AN INVESTIGATION

VI. Guidelines: Investigations will entail a focused, organized and impartial examination of available information either supporting or rebutting the allegation of abuse, neglect or exploitation. Investigators must keep the program chief apprised of significant difficulties, unusual developments or safety concerns in assigned case.

### A. Code of Ethics:

1. APS staff shall obtain information without predisposition or prejudice and base recommendations and conclusions solely on an impartial evaluation of all the information gathered.
2. APS staff shall not reveal any confidential information obtained during a professional engagement without proper authorization.
3. APS staff conducting an investigation shall express no opinion regarding the guilt or innocence of any person or party.
4. APS staff shall demonstrate a commitment to professionalism and diligence in the performance of their duties.
5. APS staff shall strive to increase the competence and effectiveness of professional services performed under their direction.
6. APS staff shall not engage in any illegal or unethical conduct or in any activity that would knowingly constitute a conflict of interest.

### B. Interviews Include: except where inclusion would jeopardize the health, welfare or safety of the vulnerable adult. (6906 b)

1. The reporter of the incident if known. (6906 b3)
2. 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. (6906 b4)
3. If the victim has a court appointed guardian, the investigator shall notify the guardian of the report and the investigation, unless such notification is likely to result in harm to the victim.
4. Available witnesses or others with information relevant to the allegation. (6906 b2)

5. The alleged perpetrator if willing. (6906 b5)

6. When possible, interviews conducted with individuals who may not be able to give testimony at a later date should be tape-recorded.

**C. The Alleged Perpetrator** shall be given the opportunity for an interview or to provide a statement. (6906 b5) If there is no prompt response to an investigator's request to schedule an interview a letter shall be sent which:

1. States the nature of the allegation.
2. Offers an opportunity for an interview or to provide a statement.
3. Provides a date by which the alleged perpetrator must respond.
4. Advises the alleged perpetrator that if s/he does not respond a finding will be recommended solely on the basis of other information gathered during the investigation.

**D. The Vulnerable Adult:**

1. The vulnerable adult has the right to be interviewed without the consent or approval of the guardian or parents. (6906b4)
2. The vulnerable adult has the right to refuse to be interviewed. (6906b4)
3. Protective services shall be provided only with the consent of the vulnerable adult, his or her guardian, or through appropriate court action. If the vulnerable adult does not consent, protective services will not be provided, unless provision is court-ordered. (6906 b1)
4. The vulnerable adult may express the opinion that pursuing some or all of the necessary investigative components in their case would jeopardize their health, welfare or safety. The Investigative Social Worker will evaluate the vulnerable adult's declaration and apparent competence before limiting the scope of an investigation.

E. Additional investigative steps may include:

1. A visit to the reported victim's place of residence and a site visit to the location of the alleged incident. (6906 b1)
2. Review of any information related to competency of the alleged victim, which might impact their ability to report accurately or make informed decisions.
3. Acquisition of documents relevant to the allegation.

F. Review and assessment:

1. The investigator will prepare a written report impartially describing all evidence obtained and recommending a finding of substantiated or unsubstantiated. (6906 c)

## 70 INVESTIGATIVE CASE FILE

**VII. General Guidelines:** Only pertinent information gathered during the investigative process shall be documented and maintained in the investigative file. The contents of the case file are confidential and may not be released except to the extent permitted by statute.

**A. The Case File should include:**

1. Name, date of birth and social security number of victim and perpetrator.
2. A contact log showing the name, telephone number, address and relationship to the victim of all contacts made during the course of the investigation. Required for all substantiated cases.
3. Contact notes indicating the date, time and place of interview, individuals present, key questions asked and responses given. When relevant include direct quotes and behavioral observations.
4. A clear description of the alleged incident and relevant discrepancies from important witnesses.
5. Relevant physical and collateral evidence such as; Photographs of injuries, damage to property, condition of home; Excerpts from medical reports of physical injuries or mental status exams that are relevant to the case; Copies or originals of financial and legal documents that are relevant to the case and relevant written statements from important figures in the case.
6. A Case Closure form and Investigative Report Summary stating the investigator's recommendation. If recommending substantiation of any allegation in a multiple perpetrator investigation, separate case numbers must be obtained and separate case closures completed for each perpetrator before submission.

**VIII. Outcomes and Closures:** The purpose of the investigative report is to provide the APS Program Chief, DLP Director, DAD Commissioner and Legal Counsel with the relevant facts and evidence of a case that formed the bases for the Investigator's conclusion and recommendation. An Investigative Case Closure Form and Summary Report will be prepared by the investigator and will contain a description of all evidence obtained and a recommendation of substantiated or unsubstantiated. (6906 c) This recommendation will be based on an impartial evaluation of the available information.

A. The Investigative Summary will contain:

1. A clear statement detailing why the alleged victim is or is not a vulnerable adult.
2. The specific allegation investigated with the statutory identifier.
3. When recommending the substantiation of allegations the investigator will detail the relevant information that was used in making that determination.
4. When not recommending substantiation of the allegations a brief descriptive summary of the relevant information is sufficient.
5. A statement of conclusion recommending that the allegation be substantiated or unsubstantiated.

B. A Recommendation of Unsubstantiated may be the result of the following:

1. The statutory definitions for vulnerable adult and/or abuse, neglect or exploitation were not met in this case.
2. The available information indicates that the alleged event did not occur or the alleged perpetrator was not the party responsible.
3. The alleged event occurred but does not rise to the level abuse, neglect or exploitation.
4. The available information was insufficient to support a finding of substantiated.
5. The reported issue does not appear to constitute abuse and has been resolved to the satisfaction of all parties.

\* If a determination not to substantiate has been made letters may be sent to the alleged victim and alleged perpetrator indicating that result.

- C. A Recommendation of Substantiated is based on the Investigator's determination that the report is accurate and reliable and would lead a reasonable person to believe that the vulnerable adult has been abused, neglected or exploited (6902 12) and that the identified perpetrator is the party responsible.

1. The APS Program Chief, in consultation with the DLP Director, will decide whether to forward a recommendation of substantiation to the Commissioner.
  2. If a decision to recommend substantiation occurs, the perpetrator shall be given notice of the recommendation, and the evidence which forms the basis of the recommendation, and shall be notified of how a substantiated report might be used. (6906 c)
  3. The alleged perpetrator will be sent a registered letter when a recommendation for substantiation has been made. The letter shall provide the basis for the recommendation, offer a copy of the investigative summary and provide information regarding the alleged perpetrator's right to appeal.
  4. The vulnerable adult may be advised that a recommendation of substantiation has been made and shall be advised of the final determination of the case. (6911 a 1, 6906 h)
  5. When a final determination has been made, APS shall inform the vulnerable adult or his or her representative, the reporter, and, if the report is substantiated, the current employer of the individual, of the outcome of the investigation and any subsequent proceedings. (6906 h)
  6. The names of individuals recommended for substantiation shall not appear on the Adult Abuse Registry until the appeals process is completed and a finding of substantiation has become final.
- D. Self Neglect case closures will substitute the term "self-neglect" for substantiated or unsubstantiated. The summary should include a description of the situation, actions taken and the outcome.

## 80 APS INVESTIGATIVE TIME FRAMES

IX. Investigations will be completed as professionally and expeditiously as possible to help ensure the public safety, enhance witness availability, improve the quality of testimony and to facilitate caseload management. These guidelines are intended to maintain investigative focus on the resolution of the most serious cases first. Every effort should be made to work within these time frames when possible.

### A. Guidelines for Case Closures:

1. An assigned case may be closed as a screening if within five working days of assignment the case is found not to meet statutory criteria. If an assigned case is closed as a screening the Intake Worker must be advised to remove the case number from the database.
2. When possible, investigations recommending substantiation will be completed within 45 days from the date of assignment.
3. Every effort will be made to complete all other investigations within 90 days of the date of assignment. Investigators should not delay filing completed investigative reports solely for the coordination of Protective Services. Protective Service Plans may be submitted as part of the investigative report or completed separately but should not delay the filing of a completed investigation.
4. If there is a compelling reason to keep the investigation open beyond 90 days the Investigator must advise the Program Chief of the rationale for keeping the case open, the plan of action for completion and estimated time of completion.
5. No case shall remain open for more than 180 days from the date of assignment without approval of both the Program Chief and Division Director.

## 90 REMEDIAL ACTIONS

**X. Provision of Protective Services:** If an investigation produces evidence that a vulnerable adult has been abused, neglected or exploited, the investigator shall arrange for the provision of protective services in accordance with a written coordinated treatment plan. (6907 a) Services will be provided when accepted by the victim or victim's guardian and when intervention is necessary for the safety of the victim.

**A. Protective Services** are actions or interventions that will, through voluntary agreement or through appropriate court action, prevent further abuse, neglect or exploitation of the vulnerable adult. Such services may include, but are not limited to, supervision, guidance, counseling, assistance with restraining orders, assistance with a letters of trespass and petitioning for appointment of a guardian. (6902 9) APS is not the responsible service provider. The Investigator will make referrals to service providers and may provide technical assistance but is not expected to provide direct service or follow up.

**B. Consent for Protective Services:** Protective services shall be provided only with the consent of the vulnerable adult or his/her guardian or through appropriate court action. If the vulnerable adult does not consent, protective services shall not be provided, unless the provision of protective services is court-ordered. (6907 1) In the event that the vulnerable adult's guardian is the person responsible for the abuse, neglect or exploitation, and does not consent to the investigation or receipt of protective services, the commissioner may petition for the removal of the guardian. (6907 2)

**C. Protective Service Plans (PSP)** will contain the following information:

1. Vulnerable Adult's Name and Case number. (If being submitted separately from the case closure form)
2. The actions taken and/or services coordinated to include the contact person and responsible organization.

\* If the victim refuses protective services, that refusal will be noted in the case closure.

## 100 DEPARTMENT LEGAL STAFF

XI. Utilization of Department Attorneys: The Adult Protective Services Program has legal resources provided through DAD. APS staff will utilize the department's attorneys for legal interpretation of statutes, legal consultation on difficult cases or issues, preparation of legal documents and legal representation.

### A. Guardianships:

1. Once a petition for guardianship is drafted, it should be sent to one of the department's attorneys for filing with the appropriate probate court. In the alternative, the department attorney may draft the petition, with the aid of the investigator, before filing it with the court.

2. If an emergency guardianship is required, the investigator will contact one of the department's attorneys. The attorney will prepare the motion and file the petition with the appropriate court, and may draft the petition itself if the investigator wishes.

3. If an attorney is not available when an emergency petition must be filed, the investigator will consult with his or her supervisor. If the supervisor agrees, the investigator may file the petitions with the appropriate probate court. Once filed, a copy of the petition and other relevant paperwork will be forwarded to the department's attorneys.

B. Relief From Abuse Orders (TRO/RO): Whenever possible investigators will limit their involvement to assisting individuals with the preparation and filing of TROs, rather than filing them themselves. If an investigator must petition for the TRO, he or she will advise the supervisor and department attorneys of that action. When it appears that the hearing for a restraining order will be contested, the investigator will inform the department attorneys as soon as possible of the date of the hearing. The attorney will advise the investigator whether or not the department legal staff will become involved in the hearing.

C. Other Court Proceedings: Investigators will advise the department attorneys of all other court proceedings and subpoenas, and consult with the department's attorneys before appearing in court.

D. Communication With Attorneys: APS staff will refer all initial calls from outside attorneys to department attorneys.

E. Staff Testimony, Court Appearances, etc.: The department attorneys must be informed when anyone requests that an APS staff person testify in court, or requests disclosure of information related to an APS investigation.

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## 110 APS ADULT ABUSE REGISTRY

**XII. Adult Abuse Registry:** APS shall maintain a registry which will contain the following information: the names of all the individuals found on the basis of a substantiated report to have abused, neglected or exploited a vulnerable adult; the date of the finding; and the nature of the finding. Aside from a person's name, at least one other personal identifier will be listed in the registry to prevent the possibility of misidentification. (6911 2b)

- A. Disclosure of Information:** Registry information may be disclosed to an employer who employs or contracts with one or more individuals, on a paid or volunteer basis, to provide care for vulnerable adults. The registry is also accessible to 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. (6911 3&4)
- B. Primary Registry Access:** The Employer, Individual or Organization referred to above may submit a written request to APS concerning a current or conditional perspective employee, a volunteer or contractor, or an individual who has applied to provide services to vulnerable adults. The request shall be accompanied by a release signed by the individual to be checked. If the checked individual appears on the registry that information will be provided to the requesting employer, organization or individual. (6911 3&4)
1. The release form must be signed by the individual whose name is to be checked against the Adult Abuse Registry.
  2. The checked individual must provide his or her current name, all aliases, his/her current address, date of birth, social security number, and a contact telephone number.
  3. The Division will retain positive Registry checks. A copy of the processed Consent to Release form shall be returned to the requesting employer for their records.
  4. Negative Registry checks shall be returned to the requesting employer for retention in their records.

C. Additional Access to the Registry: The Commissioner or the Commissioner's designee may also disclose registry information only to:  
(6911 2 c)

1. The State's Attorney or the Attorney General.
2. The public as required by the Nursing Home Reform Act.
3. A person or an organization serving vulnerable adults by assisting with employer functions; by offering, providing or arranging home sharing; or by providing personal care, developmental, or mental health services.
4. The Commissioner of Social and Rehabilitation Services or designee.
5. The Commissioner of Developmental and Mental Health Services or designee.
6. Other states' adult protective services offices.
7. Designated staff within the Department of Aging and Disabilities, including the Commissioner and his/her designee, the director of the Division of Licensing and Protection and administrative staff, the APS program chief and APS program personnel.

D. Expungement From the Registry: A person may at any time apply to the department for expungement of his or her name from the adult abuse registry. The petitioner shall have the burden of showing why his or her name should be expunged from the registry. (6911 e)

1. The request must be made in writing to the Commissioner of the Department of Aging and Disabilities.

2. The commissioner's office shall schedule an informal hearing with the petitioner and provide written notice of the decision to the petitioner.

3. Following notification by the Commissioner's office of an expungement, APS shall be responsible for removing the individual's name from the Registry and will notify the Office of Professional Regulation/Nursing Board when a licensed nurse's name has been expunged from the Registry.

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## 120 RETENTION OF RECORDS

### XIII. Guidelines for Records Retention

- A. **Contacts:** Intakes closed as contacts will be retained for one year from date of receipt then destroyed.
- B. **Intake Log:** A log of all intakes received shall be maintained by the Intake Worker for one year then destroyed.
- C. **Files of Unsubstantiated Cases** shall be retained as part of the confidential records of the department of aging and disabilities. If no court proceeding is brought 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. **Files of Substantiated Cases** shall be maintained in a secure, locked file cabinet. If expungement from the Adult Abuse Registry occurred in the future, the case file shall be retained for six years from date of expungement.
- E. **Adult Abuse Registry Consent for Release of Information Forms** will be returned to the requesting employer when the check is completed. If the check confirms an individual's name is on the Adult Abuse Registry a copy of that check will be added to the case file.
- F. **Case Correspondents:** Letters related to contacts or cases will be added to the appropriate case file and subject to the same retention time frames as the rest of the file.