

**Annual Report on  
Adult Protective Services for State Fiscal Year 2018**

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## **Voluntary Reporting to Promote Good Governance**

The Department of Disabilities, Aging and Independent Living (DAIL), Agency of Human Services (AHS), is pleased to present this State Fiscal Year 2018 (SFY18) report on APS.

Act 46 of 2013 required the Secretary of the Agency of Human Services to submit an annual report to the Legislature through January 2018. Although the requirements of Act 46 have ended, the department is voluntarily providing the information previously required because doing so is healthy for the program and ensures elected and appointed officials and community partners have the opportunity to stay informed on our operations. The improvements in Vermont's APS programs over the past six years have been well-documented, and the progress has been a result of building and maintaining collaborative and transparent partnerships.

## **Dedication to Susan Dennis**

This annual report is dedicated to the memory of Susan Dennis. Susan died on September 16, 2018, after a prolonged battle with cancer. She was a Nurse Surveyor within the Division of Licensing and Protection. She spent her career caring for and protecting vulnerable Vermonters, working tirelessly to ensure health care systems kept residents and patients safe from abuse and neglect.

## **Adult Protective Services' Mission and Organizational Structure**

APS is the primary unit of state government responsible for investigating allegations of abuse, neglect and exploitation of vulnerable adults under Title 33 of Vermont Statutes. APS is a program within the Division of Licensing and Protection (DLP), with the 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 in response to complaints and self-reports from the facilities.

During SFY19, APS was staffed with 16.5 FTE positions, as follows:

- 1 APS Director (central office)
- 2 APS Field Supervisors (home based)
- 9 APS Investigators (home based)
- 1 APS Assistant Director (manages report intakes and screening)(central office)
- 2 Program Specialists (processes report intakes)(central office)
- 1 APS Senior Planning Coordinator (system administration and administration (central office)
- .5 Temporary Administrative Assistant (registry requests)(central office)

## **Services Delivered**

### **Community Outreach and Education**

APS continued to provide monthly mandatory reporter training at the Waterbury State Office Complex for both state employees and community partners and publishes a Vermont Vulnerable Adult Mandatory Reporter Training video on YouTube.

### **Intake and Screening**

All APS investigative activities begin with a report filed with intake staff. Within 48 hours of receiving a complete report, APS staff determine if the alleged victim is a vulnerable adult and if the allegations meet the statutory definitions for abuse, neglect, or exploitation. If both criteria are met, an investigation is assigned. If the report is not complete and criteria are not clear, APS intake staff have four business days to gather additional information from the reporter or others who may have knowledge of the situation. If intake staff still don't have enough information to determine if the alleged victim is a vulnerable adult, an APS Investigator may be sent to perform a field screen to make a determination about vulnerability. Field screens are to be completed within 6 business days, or they automatically convert to an investigation, which means that all reports should have a screening decision within 10 business days to be fully compliant with the APS Policy Manual.

APS intake staff also:

- Assesses the alleged victim’s situation to determine if referrals should be made to service providers or law enforcement.
- Notifies the person who made the report of the screening decision via mail, to include their appeal rights if the screening decision is to not investigate.
- Notifies the alleged victim via mail that a report was made if the screening decision is to not investigate.

In SFY17, APS restructured its intake staffing, converting a vacant APS Investigator position into an APS Assistant Director position that manages Intake and coordinates partner services. This change ensured the intake and screening function had the same level of supervisory support as our investigative work and created a higher level of consistency in the process. This also addressed the issue identified in the prior year’s APS Annual Report regarding insufficient intake capacity. One key change to the restructuring is that Program Specialists are no longer required to both gather report information and make a final screening decision. Since December of 2016, all final screening decisions have been made by an APS staff member in a supervisory or managerial level position, which ensured all reports were reviewed by at least two employees and at least one supervisor. This resulted in more consistent screening decisions and improved the quality of the information provided to investigators when reports are screened in for investigation.

### **Intake and Screening Data**

In SFY18, APS received 3,785 reports. In comparison, APS receive 3,262 reports in SFY17, indicating a **16% increase in the total number of reports received from SFY17 to SFY18**. Of those 3,785 reports 1,115, or 29%, were screened-in for investigation.

In SFY18, the median number of days for a screening decision was 2 business days, with 73% of reports receiving a screening decision and assignment made within 4 business days.

Below is a table showing the percentage of reports completed by the number of business days since report receipt. Investigations involving a field screen were removed.

Number of Business Days Until Screening Decision	% Screened for July 2017 to June 2018
Same Day Report Received	15%
1 Business Day	22%
2 Business Days	16%
3 Business Days	12%
4 Business Days	8%
5 Business Days	7%
6 Business Days	7%

7 Business Days	5%
8 Business Days	3%
9 Business Days	2%
10 or More Business Days	1%

Of the 3785 reports received, 101 required a field screen to determine if the alleged victim was a vulnerable adult, which was 2.6% of the total. Of the field screens, 92% were completed within 10 business days of receiving the report, and 40 were screened in for investigation, which was 40% of the total.

Of the 3,785 reports received, in 898 of the reports the alleged victim was a resident of a facility licensed by DLP, which was 24% of the total. These facilities include but are not limited to assisted living residences, nursing homes, psychiatric hospitals, residential care homes, and therapeutic community residences. Of the 898 reports, 123 were screened in, which was 14% of the total. This lower screen in rate is consistent with feedback received from mandatory reporters working at facilities who indicate they will over report to ensure compliance with reporting requirements.

Below is a table showing the reporting options, number or reports received by option, and the screening rate for each option. In person reports typically involve a report made by an AHS employee working in the Waterbury State Office Complex.

Reporting Method Used	Total Reports Received	% of Total Reports Received	% of Reports Screened In
Web Intake	2182	58%	29%
Telephone	814	22%	35%
Fax	322	19%	25%
Email	411	11%	23%
Other	57	1%	32%

### Investigation and Investigation Data

When a report is screened in for investigation, the APS Investigator 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. The results of a substantiation are described below under the Reviews and Appeals and the Adult Abuse Registry sections.

There are nine APS Investigators broken into two teams, with two APS Field Supervisors. The APS Field Supervisors carry half an investigation load, and the two teams are broken out into northern and southern regions.

In SFY18, APS opened 852 investigations. This number (852) is lower than the 1,115 reports *screened in* because some investigations are the result of multiple reports of the same incident that resulted in a single investigation.

In previous years, investigations and field screens were counted together in accordance with the APS Policy Manual, so a comparison to SFY17 data cannot be made. The policy manual was amended in May 2017 so that field screens would be reported as part of the intake and screening function and not part of investigation function, as field screens are, by definition, an extension of the screening process.

In SFY18, APS completed 788 investigations; this represents an 19% increase of investigations compared to the completed 664 investigations in SFY17. In comparison, in SFY16, APS completed 624 investigations, representing a 6% increase between SFY16 and SFY17.

Of the 788 investigations completed, 121 resulted with a recommendation of substantiation, for a substantiation rate of 15.4%. In comparison, in SYF17, 132 investigations resulted in a recommendation of substantiation, with a substantiation rate of 20%, and in SFY16, 97 investigations concluded with a recommendation of substantiation, with a substantiation rate of 16%.

Of the 788 investigations completed, in 266 investigations the alleged victim was a resident of a licensed facility, which was 33% of total investigations.

There are three types of allegations that APS investigates: abuse, neglect by a caregiver, and exploitation. Exploitation consists of both financial exploitation and sexual exploitation. For this report, we will consider four types of allegations, with financial and sexual exploitation examined separately.

About 1 in 6 investigations have reported or identified multiple allegation types, though data from the National Adult Protective Services Association (NAPSA) show that in the majority of cases vulnerable adults that are victim to one form of maltreatment are victim to additional forms. This is referred to as *polyvictimization*.

The tables below show the number of investigations that had an allegation of each allegation type for both unsubstantiated investigations and substantiated investigations in SFY18, keeping in mind that 16% of investigations had multiple allegation types.

#### **Unsubstantiated Investigations – Maltreatment Demographics**

Allegation Type	Number of Investigations	% Investigations with this Allegation Type
Abuse	234	30%
Exploitation	356	46%
Neglect	192	24%

#### **Recommended Substantiation Investigations – Maltreatment Demographics**

Allegation Type	Number of Investigations	% Investigations with this Allegation Type
Abuse	63	37%
Exploitation	67	39%
Neglect	41	24%

The APS Policy Manual provides timelines for investigation completion. Investigators should conclude their investigation and submit their report within 90 days. The manual also provides guidance on when investigators can request extensions to complete an investigation. Supervisory review and report processing is completed within 30 days.

In examining the timeliness of completed investigations, there was a marked difference from previous years. In SFY18, the average number of days for investigation for completion of



unsubstantiated investigations was 95, and the average number of days for an investigation recommending substantiation was 145. In comparison, in SFY17, the average number of days for investigation completion for unsubstantiated investigations was 87 days. The average number of days for investigation completion for investigations recommending substantiation was 215 days.

When considering all investigations, the averages are skewed by investigations that have appropriate extensions but may be open for multiple years, primarily as a result of ongoing law enforcement investigations and criminal prosecutions. In the past two year (SFY17 and SFY18), 10 investigations closed that took more than 500 days to complete. These investigations had appropriate extensions and had been documented in previous APS Annual Reports. Removing just these 10 investigations reduced the average number of days for completion of all investigations from 111 days to 101 days. This shows how the median may be a more accurate reflection of the time it takes to complete typical investigations when those investigations with extensions are not removed from the data pool.

### **Investigator Caseload Data**

In SFY18, the average daily caseload for APS Investigators was 31, a significant increase from the 20 in SFY 17 and the 19 in SFY16 but similar to the 29 in SFY15.

In SFY18, the average daily open investigations was at 306. In SFY17, the average open daily caseload was 216.

In SFY18, each investigator averaged completing 79 investigations, or 1.5 per week.

### **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 or their representative. Victims with decisional capacity can choose to decline all services. Some services typically offered include:

- Referrals to service providers, including case management, guardianship services, mental health and developmental services, law enforcement, and health care.
- Securing change of representative payee.
- Petitioning for removal of a court-appointed guardian.
- Notifying and filing a misuse of funds report with the Social Security Administration.
- Alerting financial institutions of misappropriation of funds.
- Assisting the client to close/change banking or other accounts.
- Intervening in cases of identity theft.

- Petitioning for guardianship.
- Filing for temporary restraining orders and relief from abuse orders.

A Services and Protection Summary is required for completion in all investigations where the alleged victim is determined to be a vulnerable adult, and is optional for investigations where the alleged victim is determined not to be a vulnerable adult but has consented to receiving referrals and protections. The Services and Protection Summary assesses the unmet needs of the alleged victim and documents the referrals to service providers, referrals to law enforcement, and the protective services implemented.

## Reviews and Appeals

Reviews and appeals are managed by the DAIL Legal Section on behalf of the DAIL Commissioner. There are three primary reviews and appeal types:

- When an intake is screened out, indicating that APS staff feel that an investigation is not warranted, the reporter may request this decision be reviewed by the DAIL Commissioner.
  - Of the 3,785 reports APS screened in SFY18, less than 1% (22 total, or 0.581%) resulted in a request for the Commissioner to review and reconsider investigating. Of those 22 requests, 15 screening decisions were upheld, and 7 were opened for investigation (68% upheld).
  - These results closely match the previous numbers from SFY17 where 23 reviews were conducted of an APS screening decision not to investigate. Of those, 12 of the screening decisions were upheld, resulting in 52% of decisions upheld. In comparison, in SFY16, there were 13 reviews, of which 62% were upheld.
- When an investigator recommends that an investigation **not** be substantiated, the reporter may request this decision be reviewed by the DAIL Commissioner.
  - There were 3 reviews of an APS investigation resulting in all 3 (100%) upheld by the Commissioner.
  - In the prior year (SFY17), there were 5 reviews of an APS investigation resulting in unsubstantiation. Of those, 4 were upheld, resulting in 80% of decisions upheld. In comparison, in SFY16, there were 2 reviews, of which 100% were upheld.
- When an investigator recommends substantiation after an investigation, the alleged perpetrator may appeal that decision to the DAIL Commissioner and/or the Human Services Board (HSB). HSB decisions may then be appealed to the Vermont Supreme Court.
  - Of the 121 investigations recommended for substantiation, 20 (16.5%) were appealed to the Commissioner and/or the Human Services Board. Of those, 11 of the recommendations were upheld by the Commissioner, resulting in 55% of decisions upheld. 5 were upheld by the Human Services Board, and 4 were

overturned (either by the Commissioner or the Human Services Board), resulting in 80% being upheld.

- In the prior year (SFY17), there were 21 appeals of a recommendation of substantiation. Of those, 12 of the recommendations were upheld, resulting in 57% of decisions upheld. In comparison, for SFY16, there were 41 appeals, of which 76% were upheld.
- There were no appeals that concluded with the Vermont Supreme Court in SFY18.

## **Adult Abuse Registry**

APS is responsible for maintaining and managing the Vermont Adult Abuse Registry, which provides a confidential listing of individuals who have been substantiated for abuse, neglect and/or exploitation of a vulnerable adult. The registry may be accessed by current or prospective employers whose employees or volunteers serve vulnerable adults and/or children. The Adult Abuse Registry receives over 50,000 checks a year. Each check is partially automated but does require the review and action of an APS staff member to complete, requiring APS to dedicate a minimum of 0.5 FTE to complete the checks.

In SFY18 there were 53,533 checks run against the Adult Abuse Registry

In SFY18, APS placed 106 individuals on the registry. In comparison, in SFY17, APS placed 79 individuals on the registry, and in SFY16, APS placed 64 individuals on the registry, representing a 66% increase between SFY16 and SFY18. Also, 107 additional registry records were completed using background data as part of the registry record completion project.

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 being placed on the registry if overturned.
- When an alleged perpetrator has allegedly harmed multiple vulnerable adults, there will be a separate investigation for each vulnerable adult. As a result, there can be multiple investigations that recommend substantiation against a single individual.

## **Expungement**

After an individual has been placed on the Adult Abuse Registry, they can make a request to the DAIL Commissioner to have their name expunged. To be expunged, individuals generally must speak to activities they have engaged in to create change in their thinking and/or behavior since the substantiation which indicate a reduced risk to vulnerable adults.

In SFY18, there were 17 expungement requests resulting in the removal of 10 individuals from the Adult Abuse Registry. In comparison, in SFY17, there were 18 expungement requests resulting in the removal of 10 individuals from the Adult Abuse Registry.

## **Beyond SFY18**

### **APS Committee and File Review**

APS continues to find value in working with volunteers and community partners through the APS Committee of the DAIL Advisory Board and through the file review process, where individuals external to APS review reports and investigations to provide feedback. Anyone interested in becoming either a committee member or file reviewer should contact John Gordon, Assistant Director for APS, at [john.gordon@vermont.gov](mailto:john.gordon@vermont.gov).

### **Statutory Review**

The statutory language establishing APS was written in the 1970s, at a time when vulnerable adults were largely cared for in institutional settings and there were very different views on the ability of vulnerable adults to make decisions regarding their own care and life. APS will be working with both internal and external partners to identify areas of the statute that might benefit from an update.

### **Regional Outreach**

APS will be collaborating with other parts of AHS to host regional gatherings to inform communities and service providers about APS' role, to include mandatory reporter training.