Adult Protective Services Policy Manual

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Tennessee Department of Human Services
Adult Protective Services
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Chapter 1: General Information

Introduction/Overview

Legal Authority—T.C.A. 71-6-101 et. seq.

Tennessee was one of the first states to pass legislation mandating the provision of protective services to adults. General services were provided to adults in the 1960's. In October 1971, responsibility for providing services to adults was transferred to the Social Services staff. All services to adults at that time were voluntary.

With increasing concern for the growing older population, legislation was passed in Tennessee in 1974 which mandated that protective services be provided to those 60 years of age or older. This paved the way for the bill passed by the Tennessee General Assembly in 1978 which provided protective services for all mentally or physically dysfunctional adults in need of such services, regardless of age. Amendments passed in 1986, 1995, 1996, 1999, 2000, 2001, 2004, and 2013 (Lynn's Law) have clarified portions of the law and expanded options available in the provision of protective services.

It is the legislative intent for the Department of Human Services (DHS) to protect adults from abuse, neglect or exploitation and that DHS has authority to provide or to arrange for the provision of protective services within budgetary limitations and within the availability of funds appropriated for the general provision of protective services to all persons entitled to those services.

DHS can provide services for persons who request services or, in some cases, when the adult lacks the mental capacity to consent to needed protective services. The Department can seek a court order to provide services to the adult while the adult remains in the home. It is possible for the Tennessee Department of Human Services to provide protective services to adults who meet the APS (Adult Protective Services) criteria for services and for whom resources are available to provide for those services. It is also recognized that adult abuse and neglect are social problems which affect the entire community and the community shares in the responsibility to seek solutions and provide protection to dependent, abused or neglected adults.

The Department recognizes that attainment of the age of majority (age eighteen (18) and up), *i.e.*, adulthood, is the point at which an individual should have the freedom to determine their lifestyle when possible. This rationale dictates that a client at risk must be involved in deciding what plans will be made and what actions will be taken to afford them protection which may be needed. The Customer needs to understand the options available to them and may need to be assisted in obtaining and understanding this information.

Adults have a right to self-determination. Customers, regardless of age or condition, have a right and responsibility to direct their lives to the extent that it is possible. Adult Protective Services staff must remember that the principle of self-determination is paramount to serving adults. This means that each customer will:

- Be given every opportunity to make plans for them to the degree possible.
- Be given as much information about the alternatives and options that are available to assist in making an informed decision.

Although the principle of self-determination requires that customers be free to make their own decisions, it is the responsibility of the Department to protect the customer when the customer's capacity for self-determination is impaired. If the customer refuses services and does not appear to have the capacity to make such a decision, then legal intervention will be considered.

Any sign that a customer has trouble with executive function, i.e.: recognizing problems, developing plans to address them, or carrying them out should be taken as an indication of possible lack of capacity.

In providing protective service, there may be situations in which the Department will discuss with the customer, family members, or authorized representative, a plan which the agency believes to be best for the customer. If a customer is resistant to or refuses all services, it is required that the APS Social Counselor attempt to encourage acceptance by using diligent efforts.

If a customer with capacity refuses services, no legal motions can be filed and no legal authority obtained to provide any involuntary services or perform any other case actions without the customer's consent. No alleged perpetrators can be classified as indicated of any allegation in a case with this classification.

Exception: Mental Health - Suicidal Customer – A customer who appears to understand that their decisions may result in death may still need to be evaluated by a mental health professional if there are reasons to question their mental status. The APS staff should contact their supervisor for guidance in contacting Law Enforcement or Mobile Crisis.

In situations where it is apparent that the customer is in immediate danger, the APS staff should contact 911. At the same time, the law permits the State, through the Department, to protect adults, to the extent of available resources, when they are unable to protect themselves because they lack the mental capacity for self-determination and they are suffering from harm. If intervention by the State is necessary to ensure proper care for the adult through social services, medical services and the use of legal services, the State may obtain necessary legal authority to provide those services. Out of concern for an individual's personal freedom, it is important for APS to seek the course of action which affords the needed protection while at the same time utilizing natural supports in the least restrictive setting.

Protective Services is for adults who are in need of protection and who are dependent on this service to some degree for that protection. Although the quality of life is certainly improved by the availability of this service, improving the quality of life is not the sole purpose. The primary purpose is to address abuse, neglect and financial exploitation which will improve the quality of life for vulnerable adults. APS supports Customers and their families in their efforts to protect the Customer. APS works to secure an adequate level of safety for the adult. The focus of APS is to prevent or reduce abuse, neglect or exploitation.

The Department, in an effort to meet its legal mandate, must guard against interfering with the rights of adults, and ensure the care and safety for those in need of protection. The Department uses the following basic principles to guide planning in protective services:

- To the fullest extent possible, the Customer participates in making decisions about how their needs can be met.
- The Customer is helped to remain at home or in the community for as long as their condition warrants.

- The action taken should always be the least restrictive/intrusive alternative available which will meet the individual's needs.
- To the fullest extent possible, families, caregivers and other significant members of the informal support system should be involved in meeting the needs of the adult Customer.
- To the fullest extent possible, formal services should be offered to the Customer if needed for protection.
- Legal action is only considered after all possible alternatives to legal action have been explored and exhausted.
- After legal action is taken involving loss of rights to self-direction, they are restored as soon as the Customer regains their capacity to make such decisions. It is not assumed that the inability of a person to direct their affairs is permanent.
- The program is guided by a service philosophy that:
    - Balances the need to protect vulnerable adults with respect for the adult's right to self-determination;
    - Serves as a basis for how program activities and interventions will meet the needs of service recipients;
    - Guides the development and implementation of program activities and services based on the best available evidence of service effectiveness.

Functions of Adult Protective Services

Protective services for adults include the following activities:

- Receive referrals of adults alleged to be in need of protective services;
- Conduct investigations of referrals that are assigned;
- Identifying and assessing the individual's situation and service needs through the use of physical, psychological, psychiatric or social evaluations and consultations;
- Assess levels of safety and danger;
- Counsel at-risk adults or their appropriate representatives;
- Assisting in the following:
    - The location or maintenance of adequate food, shelter and clothing;
    - required medical care or mental health services;
    - conservatorship, commitment or protective placements as needed and legally mandated;
    - location of or arranging for emergency shelter care as funding allows;
    - provide legal intervention, when necessary;
    - develop safety plans and or service action plans as needed;
    - transportation necessary in the provision of these service components;
- Provide advocacy on behalf of the Customer or the program.
- Reporters are informed about:
    - the agency's responsibilities, including protection of the reporter's identity;
    - the process used to screen and investigate reports and the role of the reporter in this process;
    - the types of services or interventions the agency can provide; and
    - the result of the screening or investigation, unless prohibited by law or court order

The following is a listing of significant statutes which authorize APS power and outlines its responsibility.

Duty to Report Abuse, Neglect and/or Exploitation T.C.A. 71-6-103(b)

Any person who has a reasonable cause to suspect that an adult has suffered abuse, neglect or exploitation shall report this to authorities.

Violation of Duty to Report T.C.A. 71-6-110
It is a misdemeanor for any person to knowingly fail to make a report of abuse, neglect or exploitation; punishable by not more than twenty-five hundred dollars ($2,500) or imprisoned for not more than eleven (11) months and twenty-nine (29) days or both.

False Reports of Abuse, Neglect or Exploitation T.C.A. 71-6-123
It is a misdemeanor to knowingly falsely report abuse, neglect or exploitation of an adult.

Process for Release of the Name of the Reporter of False Report to the District Attorney
In the event APS staff believes a reporter has knowingly made a false report or has caused another to do so, certain steps must be taken by the APS Field Supervisor and APS Program Supervisor and along with the APS Director and DHS Office of General Counsel. To be a false report subject to the criminal sanctions, the person reporting the abuse must have known it was false when the report was made. A report made in good faith, but which ultimately is unfounded, is not grounds for criminal prosecution.

Immunity from Liability for Good Faith Reports of Abuse, Neglect or Exploitation T.C.A.71-6-105
Any persons reporting suspected abuse, neglect or exploitation are immune from civil or criminal liability.

Confidentiality T.C.A. 71-6-118
All records and documents, and information contained therein, concerning adults receiving protective services and reports and resulting investigations of abuse/neglect/exploitation of a vulnerable adult are confidential.

Violation of Confidentiality T.C.A § 40-35-111
Any person, who releases/shares confidential documents/information is guilty of a misdemeanor, may be fined, subject to civil liability and/or be confined in the county jail.

Confidentiality of the Reporter T.C.A § 71-6-118
The identity of a person who reports abuse, neglect, or exploitation must remain confidential and may not be released unless a court with jurisdiction finds good cause for the release of the identity. If this is the case, APS staff must immediately contact the supervisor; DHS Office of General Counsel; and comply with advice from DHS Office of General Counsel.

Making an APS Referral
The APS centralized statewide Intake System is available seven (7) days a week/twenty-four (24) hours a day. Reports may be received:

- online **https://reportadultabuse.dhs.tn.gov/**
- Through phone calls to the APS Hotline at 1-888-277-8366;
- In writing by mail to the Dept. of Human Services, APS Central Intake, James K. Polk Building, 15th Floor, 505 Deaderick St., Nashville TN 37243;
- by fax at (866)294-3961

Expenses paid by APS Staff for client needs or complete investigation

There are times when clients are in need of an immediate resource and none may be available resulting in APS staff paying for expenses for the client. When staff is paying for expenses out of pocket to ensure client's needs are met or investigations are completed, the following shall be followed:

- Food for Clients-Obtain supervisory approval and document in the case record. Retain a copy of the receipt and attach to the electronic case. Reimbursement is made through Edison by attaching the receipt and selecting 'Food for Other" in the expense type.
- Photo and Film Processing--Obtain supervisory approval and document in the case record. Retain a copy of the receipt and attach to the electronic case. Reimbursement is made through Edison by attaching the receipt and selecting 'Photo and Film Processing" in the expense type.
- Copies/Printing—
    - If a fee is charged prior to releasing the records, Obtain supervisory approval and document in the case record. Retain a copy of the receipt and attach to the electronic case. Reimbursement is made one of 2 ways:
        - Reimbursement through Edison by attaching the receipt and selecting 'Copies/Printing" in the expense type.
        - Complete Form 2877 and submit to Fiscal along with the receipts
    - If records are supplied and a bill is attached, send a copy of the bill to the APS Admin Secretary who will submit for approval.

Other Expenses paid by APS Staff

- Operational Supplies--Obtain budget and Assistant Commissioner Approval prior to paying conference fee. Attach a copy of the receipt and budget and AC approval and selecting 'Operational Supplies" in the expense type.
- Conference Fess—Obtain budget and Assistant Commissioner Approval prior to paying conference fee. Attach a copy of the receipt and budget and AC approval and selecting 'Conference Fees' in the expense type.

Handling Clients property –see Investigation Chapter 7

Chapter 2: Confidentiality

Purpose

APS will ensure confidentially of all records and/or electronic documents or equipment containing such documents pertaining to APS Customers. **T.C.A. §71-6-118**

Release of Confidential APS Investigation Information

Release of information from APS records should follow the principle that **only** the amount of information necessary to obtain services or other assistance for the adult or to obtain information necessary for the investigation of A/N/E (Abuse/Neglect/Exploitation) allegations and for the provision of protective services should be released. Release of all, or substantial portions of a record, are not appropriate except in circumstances where it is absolutely necessary to do so and with approval from TDHS (Tennessee Department of Human Services) Office of General Counsel. If there is *any* question about what information should be released and to whom, staff are to talk to their supervisor and must consult TDHS Office of General Counsel.

Release of Information Requiring TDHS Office of General Counsel Approval

If a request for information is made for any purpose not directly associated with the investigation of the abuse, neglect or exploitation of the adult, the information cannot be released without review by TDHS Office of General Counsel for an exception that may allow disclosure. TDHS staff who receives a court order, a subpoena or other legal document to release any APS case information including the name of the reporter or any portion of the APS record must immediately consult TDHS Office of General Counsel for evaluation**.** Upon obtaining TDHS Office of General Counsel approval, APS may release information, excluding the name and identity of the reporter to:

- Law enforcement.
- A court, other than the court with jurisdiction over the APS case.
- Grand Jury, by subpoena.
- Attorney/Guardian ad litem assigned to the Customer.
- Other persons as ordered by the court.
- Other state or federal agencies investigating cases of vulnerable adult abuse or neglect.
- Other state or federal agencies requesting information about an APS case when they are seeking to determine if there is an APS case on a Customer in Tennessee, and the other agency had received an APS related report in their state, or who need assistance in providing assistance to someone in their state for whom they are providing APS services.

Release of information about an alleged perpetrator involves issues of civil rights regarding their employment status or their ability to hold a license necessary to provide services to adults. No information about the identity of an alleged or indicated perpetrator can be released to employers or licensing agencies. Any information to be released about a perpetrator or alleged perpetrator will be provided by TDHS Office of General Counsel.

Chapter 3: Intake

Legal Authority

Adult Protection Act; T.C.A. §§ 71-6-101 et seq.

Purpose

The purpose of intake is to manage information regarding reports alleging abuse/neglect or exploitation or risk of abuse/neglect or exploitation of vulnerable adults who are unable to protect themselves; to enter the information into the computer system; screen reports to ensure that threats to the safety of a vulnerable adult are effectively identified, that information reported meets the criteria for APS intervention. An appropriate response priority is assigned, and reports are forwarded to appropriate APS personnel for investigation/assessment.

The Role of Intake

- Intake staff will answer incoming calls, and will take, distribute and respond to reports based on established protocol. HS-0055 Intake and HS-3163 APS In-Take On Call After Hours (**Accessible through TNAPS; back-ups available on the forms page*)
- The date and time of each report shall be recorded to document the time at which the report was taken over the phone as opposed to the date and time that it is entered into the case management system.
- In the event a report is received via fax, electronically or by voicemail, the report shall record the actual date and time they were received.
- The Intake Supervisors manage and monitor the call center and workflow processes.

Criteria for APS Involvement

Intake staff will gather sufficient information to determine if the report meets minimum criteria for assignment and investigation. To be accepted for APS intervention, information from the reporter must meet all the following requirements:
HS-0055 Intake; (**Accessible through TNAPS; back-ups available on the forms page*)

- The alleged victim must be age 18 or over.
- The alleged victim must have an impaired functional status that prevents them from protecting themselves and there are no other willing to assist them. Examples include:
  - Mental health condition that inhibits independent function
  - Physical health condition that inhibits independent function
  - Frailty due to advanced age

Note*
None of the aforementioned conditions will automatically result in an assigned report. The referral must include a description of how the condition prevents the adult from protecting or providing for themselves.

- There must be an allegation that the alleged victim has been abused, neglected or financially exploited or is self-neglecting, **or at risk** of being abused, neglected or financially exploited or self-neglecting. Financial exploitation, physical abuse and neglect

must be by a paid or unpaid caregiver; if sexual abuse is reported, the alleged perpetrator does not have to be a caregiver and the relationship/role is immaterial.

Note: *Mental dysfunction, physical dysfunction or frailty due to aging that is reported does not* ***automatically*** *result in an assigned report.* ***There must be a description of how that status prevents the adult from protecting or providing for themselves.***

"Abuse or neglect" means the infliction of physical pain, injury, or mental anguish, or the deprivation of services by a caregiver that are necessary to maintain the health and welfare of an adult or a situation in which an adult is unable to provide or obtain the services that are necessary to maintain that person's health or welfare.

Severe Abuse is defined as: *Any abuse which requires immediate medical attention to treat conditions that could result in* irreparable *physical harm or any sexual abuse.* This could also include neglect that is so severe that immediate medical attention is required or neglect that could result in irreparable physical harm.

"Caretaker/Caregiver" (caretaker and caregiver are synonymous) means a person or institution that has assumed the duty to provide for the care of the adult "by contract or agreement, or service exchange (i.e. someone who provides cleaning, cooks, or shopping etc. in exchange for room and board.) A caregiver may be paid or unpaid. A caregiver who is a family member must meet all of the following;

- Reside in the same building with or regularly visits the adult; and
- Know or reasonably should know of the adult's mental or physical dysfunction or advanced age; and
- Know or reasonably should know that the adult is unable to adequately provide for the adult's own care.

A financial institution is not a caregiver of funds or other assets unless such financial institution has entered into an agreement to act as a trustee of such property or has been appointed by a court of competent jurisdiction to act as a trustee with regard to the property of the adult.

APS investigates the following **Allegation Types:**

- **Physical Abuse:**
  Abuse (physical) generally involves more extreme forms of harm to the adult, including the infliction of pain, injury, unreasonable confinement, or other cruel treatment such as hitting, burning, kicking and pinching by the caregiver.

- **Sexual abuse:**
  Abuse (sexual) occurs when a vulnerable adult is forced or tricked into engaging in sexual activity or is exposed to sexual activity by anyone. It does not have to be a caregiver.

- **Emotional Abuse:**
  Abuse (emotional) generally involves emotional harm to the adult, including the infliction of mental anguish, unreasonable confinement, or other cruel treatment by a caregiver

- **Neglect**:
  Neglect occurs when the basic needs of a dependent adult are not met by a caregiver. Neglect may be unintentional, resulting from the caregiver's lack of ability to provide or

arrange for the care or services the adult. Neglect also may be due to the intentional failure of the caregiver to meet the adult's needs.

- **Self-neglect:**
  Self-Neglect occurs when a dependent adult is unable to care for him/herself or to obtain needed care. The impairments result in significant danger to the adult and in some situations deterioration can occur to the point that the adult's life may be at risk.

- **Financial Exploitation:**
  Financial Exploitation occurs when a caregiver improperly uses funds intended for the care or use of the adult. These are funds paid to the adult or to the caregiver by a governmental agency.

Reports based only on financial exploitation are limited to the definition in the law. If the report alleges the misuse of non-governmental funds, then the allegation must also include one of these conditions: abuse, sexual abuse, neglect, or self-neglect, in order for the protective service report to be accepted. Reports based **only** on the misuse of non-governmental funds will not be accepted for investigation but will be referred to law enforcement. Protective Services would then be provided to alleviate the abuse or the neglect. Reports based only on the misuse of funds other than those paid by a governmental agency will not be accepted by APS for investigation but will be referred to law enforcement via form HS-0875 (1215). (**Accessible through TNAPS; back-ups available on the forms page*)

Allegations of Patient to Patient/Resident to Resident Abuse

- Reports of incidents between residents/patients **will be accepted** when there is reason to believe, or it is alleged, that the facility administrator or staff (in their roles as caregivers):

  - Were negligent,
  - Failed to properly supervise the residents,
  - Failed to take appropriate action to prevent the reported incidents from occurring,
  - Could have anticipated an incident (*i.e*., patient has a history of abusive acting out),
  - The allegations include any form of sexual abuse, or
  - The APS system indicates that there is an open case or that there have been other reports involving this victim or facility indicating negligence on the part of the facility.

- Reports of incidents between residents/patients **will not be accepted** when the reporter has no reason to believe that the incident could have been anticipated by the facility, **and** the reporter believes that the facility, as the caregiver, has responded appropriately to prevent additional incidents.

- Reports of abuse, neglect and/or exploitation of patients/residents in facilities operated by the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) or the Department of Intellectual and Developmental Disabilities (DIDD) will not be investigated by APS in accordance with T.C.A. 71-6-103(k). Investigation of those allegations will be completed by investigators assigned to DIDD or TDMHSAS agencies for that purpose. This applies to the following facilities:

  - Clover Bottom Developmental Center

- Greene Valley Developmental Center
- Middle TN Mental Health Institute
- Western State Mental Health Institute
- Memphis Mental Health Institute
- Moccasin Bend Mental Health Institute
- Intermediate Care Facilities (ICF) established by DIDD that are state owned and state operated

Reports of harm to individuals residing in one of the above facilities that occur while the adult is outside the facility **will** be accepted for investigation if it meets APS Criteria.

Reports Involving Death of an Alleged Victim - T.C.A. § 71-6-103(b)(1**)**

APS may accept for investigation reports of a deceased alleged victim and may open a case in the name of the deceased alleged victim if:

- there is reasonable cause to believe that abuse, neglect or exploitation occurred and contributed to the death of the alleged victim and,
- the alleged perpetrator is a caregiver and,
- there is reason to believe other vulnerable adults may be at risk as long as all three criteria (age, impairment, and allegations) have been met.

APS may open a case in the name of a deceased alleged victim who was residing in a facility prior to their death if:

- there is reasonable cause to believe that abuse, neglect or exploitation occurred while the adult was in the care and supervision of the facility and those conditions contributed to the death of the alleged victim and,
- the alleged perpetrator is a facility employee and,
- there is reason to believe that other vulnerable adults are at risk.

If another specific alleged victim is reported to be in similar circumstances, the report as it relates to the alleged victim who is at risk will be accepted and a case will be established in that alleged victim's name.

Chapter 4: Screening and Assignment

Legal Authority T.C.A. 71-6-103

Purpose

To ensure reports meet the criteria for APS assignment and appropriate information is gathered to make a screening decision in a timely and efficient manner.

Screening and Assignment

Intake staff will screen the report to determine if the report meets APS criteria for assignment, investigation and assessment. If the report meets criteria, it will be assigned a response priority that determines the time frame for initiating the investigation. The report will then be assigned to the appropriate APS Social Counselor or APS Field Supervisor. If the report does not meet criteria, it will not receive a priority status and will be screened out. **The fact that an individual has a disability does not imply that the report will automatically be assigned.**

A. **Priority A** – Immediate Assignment and Response – A response must be initiated within twenty four (24) hours of the day the report was assigned through face to face contact/interview either by the APS Social Counselor or law enforcement. If initiation is by law enforcement, the APS Social Counselor must follow up with face to face contact with the Customer within two (2) business days of contact by law enforcement.

B. **Priority B –** Immediate Assignment – A response must be initiated through face to face contact/interview with the alleged victim within one to five (1 to 5) business days from the date of assignment, depending on emergent nature of allegations. In all cases, contact for Priority B cases must be made within five (5) business days of priority assignment.

C. **Priority C—**Immediate Assignment –A response must be initiated by the APS Social Counselor within one to seven (1-7) business days through face to face contact with the alleged victim.

APS Assignment Response Categories

AV: Alleged Victim
AP: Alleged Perpetrator
ADL: Activities of Daily Life

Allegation Type	A: Emergency Response/ Imminent Risk (To be seen by within 24 hours of the date the report was assigned):	B: Urgent Response/At Risk (to be seen within five (5) business days):	*C: Priority Response/Possible Risk (to be seen within seven (7) business days):
Abuse or Neglect	Death of a vulnerable adult that is reasonably believed to have been a result of		

Allegation Type	A: Emergency Response/ Imminent Risk (To be seen by within 24 hours of the date the report was assigned):	B: Urgent Response/At Risk (to be seen within five (5) business days):	*C: Priority Response/Possible Risk (to be seen within seven (7) business days):
	abuse, neglect, or exploitation perpetrated by a caregiver and there is reason to believe that other vulnerable adults may be at imminent risk because the alleged perpetrator has continued access to other vulnerable adults.		
Sexual Abuse	Sexual abuse has occurred within seventy-two (72) hours and the AP has continued access to the AV.	Sexual abuse is believed to have occurred within the past seventy-two (72) hours, but the AP has no access to AV or other vulnerable adults and a sexual assault exam has been conducted.	
Sexual Abuse	Sexual Abuse has been alleged and the AP has continued access to AV or other vulnerable adults.	Sexual abuse or exploitation has been alleged that does not involve penetration or touching of genitals, anal or breast area and AP will not have continued access to AV or other vulnerable adults.	Sexual abuse has occurred within the past six (6) months. AP does not currently have access to AV or other vulnerable adults.
Sexual Abuse	Allegations have been made that a vulnerable adult is having sex and it is unclear if the alleged victim has the mental capacity to consent and the alleged perpetrator has continued access.	Allegations have been made that a vulnerable adult is having sex and it is unclear if the alleged victim has the mental capacity to consent to sexual activity. Alleged victim has or may have a conservator. The alleged perpetrator	Allegations have been made that a vulnerable adult is having sex. It is unclear or uncertain if the AV has the mental capacity to consent to sexual activity. AV has or may have a Conservator. The AP does not have current access and/or there is no natural support in place.

Allegation Type	A: Emergency Response/ Imminent Risk (To be seen by within 24 hours of the date the report was assigned):	B: Urgent Response/At Risk (to be seen within five (5) business days):	*C: Priority Response/Possible Risk (to be seen within seven (7) business days):
		does not have continual access and there is no natural support plan in place.	
Sexual Abuse	Allegations have been made that a vulnerable adult has been subjected to unsolicited inappropriate touching or sexually explicit or suggestive comments or exposed to images of a sexual nature even when the AP will not have continued access to the AV.		
Physical Abuse	Physical Abuse by a caregiver, that has occurred within seventy-two (72) hours, and has resulted in trauma to the head, and/or body and/or serious injury resulting in the need for medical treatment. AP may or may not have continued access to the AV.	Physical Abuse by a caregiver, that has occurred within seventy-two (72) hours, and has resulted in trauma to the head and/or body and/or serious injury resulting in the need for medical treatment. AV is in a protective environment and is receiving or has received medical treatment. AP does not have current access	Allegations of physical abuse have been alleged within the past six (6) months with no current injuries or medical conditions as a result and the AP has no current access to AV.
Physical Abuse	Physical abuse has been alleged and AP has continued access to the alleged victim or other vulnerable adults.	Physical Abuse by a caregiver within seventy-two (72) hours that has resulted in minor injuries. No medical attention is required and the AP does not have current access.	Any factor that will result in serious harm to the alleged victim if services are not initiated within seven (7) days, such as an established pattern of harm or repeated incidents and services or medical treatment is

Allegation Type	A: Emergency Response/ Imminent Risk (To be seen by within 24 hours of the date the report was assigned):	B: Urgent Response/At Risk (to be seen within five (5) business days):	*C: Priority Response/Possible Risk (to be seen within seven (7) business days):
			needed to reduce risk.
Physical Abuse	Allegations of unreasonable confinement, chemical or mechanical restraints, which may place alleged victim in imminent risk, where there are also concerns of abuse or neglect.	Allegations have been made that the AV is being mechanically restrained, where there is no doctor's order, which may place alleged victim at risk. There are no other concerns of abuse or neglect or any other risk factor.	
Physical Abuse	Allegations of abuse have been made which meets APS criteria for assignment and there is reason to believe that the caregiver may flee or move the alleged victim to an unknown location, placing the alleged victim in imminent risk.		
Abuse	There is concern that a stressed caregiver needs immediate assistance with the care of alleged victim for fear that he/she will somehow physically harm the alleged victim.		A stressed Caregiver is requesting APS assistance, reporting that he/she is unable to continue to provide care for the alleged victim. They have exhausted all available resources without success.
Neglect/Self-Neglect:	Allegations of neglect by a caregiver or self-neglect that has resulted in serious untreated medical conditions.	Allegations of neglect by a caregiver or self-neglect that has resulted in serious medical conditions. Medical treatment is or has been provided.	Allegations of neglect by a caregiver or self-neglect that has resulted or may result in non-serious medical conditions.
Neglect	Allegations of neglect have been made		

Allegation Type	A: Emergency Response/ Imminent Risk (To be seen by within 24 hours of the date the report was assigned):	B: Urgent Response/At Risk (to be seen within five (5) business days):	*C: Priority Response/Possible Risk (to be seen within seven (7) business days):
	which meets APS criteria for assignment and there is reason to believe that the caregiver may flee or move the alleged victim to an unknown location, placing the alleged victim in imminent risk.		
Neglect	Allegations of abuse or neglect have been made which places the AV at risk, meeting APS criteria for a non-emergency assignment and the AV is threatening Suicide.		
Neglect	AV is currently in a protective environment and the caregiver is currently trying to remove AV either against medical advice and/or psychiatric recommendations.	AV is currently in a protective environment and the caregiver is threatening to remove AV either against medical advice or to a possible unsafe environment within five (5) days. Caregiver states he/she is picking AV up on certain date that is less than five (5) days away and is against medical advice or unsafe.	AV is currently in a protective environment and the caregiver is threatening to remove AV either against medical advice or to a possible unsafe environment. AP made statements that he/she is picking AV up and it is against medical advice or unsafe but there is no specific date given and no specific discharge plans made.
Neglect	There is concern that a stressed caregiver needs immediate assistance with the care of alleged victim or fear that they will be unable to provide care		A stressed caregiver has reported that continuing to care for the alleged victim may result in harm to the alleged victim placing them at risk.

Allegation Type	A: Emergency Response/ Imminent Risk (To be seen by within 24 hours of the date the report was assigned):	B: Urgent Response/At Risk (to be seen within five (5) business days):	*C: Priority Response/Possible Risk (to be seen within seven (7) business days):
	for the alleged victim.		
Neglect	The AV requires twenty-four (24) hour care and/or supervision and has been left alone with no caregiver. AV is unable to meet his/her basic needs placing them at imminent risk.	The AV may require twenty-four (24) hour care and has been left alone with no caregiver and there is concern that AV may be unable to meet his/her basic needs, placing the alleged victim at risk.	AV is in need of services where temporary services are in place but no long term arrangements for services have been made.
Neglect/Self-Neglect	Allegations indicate that alleged victim is unable to perform Activities of Daily Living (ADL's), adequately to provide basic needs and/or has no access to daily essentials such as food, water, and/or shelter placing them at imminent risk.	AV is or has been without essentials for daily living (Including immediate eviction) to the extent that the alleged victim will be at risk if assistance is not given within five (5) days.	AV is receiving inconsistent or inadequate assistance with essential ADL's (including basic needs for food, shelter, needed services/resources or supervision and including an eviction, etc.). AV is exposed to environmentally hazardous or unsanitary conditions reasonably believed to be detrimental to the AV's health and places them at risk but not in immediate danger.
Self-Neglect	The alleged victim is in imminent danger and unable to protect themselves due to critical illness or a life threatening condition that would include conditions that impede ADL's and/or the alleged victim's judgment or physical condition is impaired to the extent that the alleged victim is at imminent risk.	The AV's judgment or physical condition is impaired to an extent that places the alleged victim at risk if assistance is not given within five (5) days.	AV's mental/physical condition or their impaired judgment places him/her at some risk.

Allegation Type	A: Emergency Response/ Imminent Risk (To be seen by within 24 hours of the date the report was assigned):	B: Urgent Response/At Risk (to be seen within five (5) business days):	*C: Priority Response/Possible Risk (to be seen within seven (7) business days):
Neglect			A caregiver has reported an illness or physical disability affecting themselves that is untreated or deteriorating to the point that supplementary services are needed to insure adequate care for the alleged victim and these services are not currently in place.
Neglect/Self-Neglect		There is reason to believe that the AV or Caregiver is exhibiting behavior suggestive of psychological distress indicating that the alleged victim may at risk for physical abuse or neglect. There has been a sudden deterioration in the vulnerable adult's condition which makes them unable to care for themselves, placing the vulnerable adult at risk if assistance is not received within five (5) days.	There is reason to believe that the caregiver or alleged victim is exhibiting behavior suggestive of psychological distress that places the alleged victim in immediate danger or at risk.
Emotional Abuse			A caregiver is consistently verbally abusive to alleged victim, causing some adverse psychological effects such as fear of others or depression and there are concerns that the verbal abuse may later escalate to physical

Allegation Type	A: Emergency Response/ Imminent Risk (To be seen by within 24 hours of the date the report was assigned):	B: Urgent Response/At Risk (to be seen within five (5) business days):	*C: Priority Response/Possible Risk (to be seen within seven (7) business days):
			abuse and options for respite are either unavailable or have been exhausted.
Financial Exploitation			Financial exploitation by a caregiver is alleged and there is reason to believe that government funds are being misused without the knowledge or consent of alleged victim.
Home Study Request			APS in another state has requested a courtesy interview or home study.

Reconsideration

Requests to intake for reconsideration of a report may be made only one (1) time during the life of the report, prior to being accepted for investigation. The final decision rests with the APS Director or his/her designee.

Reasons for reconsideration:

- **For a change in Priority Status A, B, or Defer C:**
  - field requests assignment
  - Inaccurate response priority
- **To Request a Screen Out: It is the APS Field Supervisor's responsibility to notify the referent if a report that was initially assigned was reconsidered to a screen out**
  - Duplicate Report – When a report is made by two reporters on the same alleged victim or Customer with the exact same allegations, one report will be screened out. (For example, the emergency room and ambulance service call on the same Customer regarding the same incident and same allegations.
  - Reported allegations do not meet criteria for APS investigation.
  - Allegations occurred in a facility operated by DMHSAS/DIDD.
  - Allegations involve patient to patient or resident.
- **For Intake Rework:**
  - Additional information appears to be needed. It appears to the investigative staff that additional information is necessary to make an accurate screening decision. This

may require additional phone calls to other individuals who may have knowledge of the situation or incident by the intake counselor. This is not an investigative activity but rather an "extended intake."

- Allegations marked are not consistent with the narrative in the body of the report. For example, the allegations describe neglect and financial exploitation only, but self-neglect is also marked as an allegation.
- Correction of information contained in the report. For example, the reporter is identified or the narrative is missing vital information.

Sensitive and High Profile Cases

There may be reports that the Department becomes aware of that are considered sensitive or high profile due to the nature of the information pertaining to individuals in the report. These reports should be assigned with discretion and care. A report may be classified as sensitive or high profile at intake or the investigation level.

Sensitive Reports

The criteria for classifying a report as sensitive includes:

- The report pertains to an individual who is related to an APS employee.
- The report pertains to an individual who has a conflict of interest with the investigator or with someone in the direct line of supervision. For example: a person employed in the office of the APS counselor, friend or acquaintance of an APS counselor, FS1, etc.
- The report pertains to an individual who is in a law enforcement capacity.

High Profile

The criteria for classifying a report as high profile includes:

- This report pertains to a well-known public figure.
- This report pertains to a state employee as a client or an alleged perpetrator who is presently employed with the state or retired from the state regardless from any department. This includes those employees in executive management roles.

All reports classified as high profile are automatically routed to the state office. A state office person shall be responsible for assigning the report to the appropriate APS Investigative staff. The General Counsel, Deputy General Counsel and Assistant Commissioner over APS are to be notified of all cases classified as high profile.

Chapter 5: Notifications

Legal Authority

T.C.A. § 71-6-103(d)(1), T.C.A. § 71-6-103(d)(2)

Purpose

APS (Adult Protective Services) law requires certain notifications be made to other agencies. This notification provides the necessary information to all agencies that need to be involved in order to provide protection to vulnerable adults. Notification are be made utilizing HS-0875, by telephone, fax, email, mail or in person. HS-0875 (**Accessible through TNAPS; back-ups available on the forms page*) must be completed on all reports (assigned and screened out) for all allegation types except self-neglect and submitted no later than two (2) business days to all appropriate agencies. The reporters name is never provided. There will be times when a Notification of Death is submitted within the case management system. Refer to Fatality Review Chapter 18.

Notifying Law Enforcement

When a report alleging abuse, neglect or exploitation of an adult by another person or persons is received, APS is required to make a report to law enforcement using HS-0875. (**Accessible through TNAPS; back-ups available on the forms page*) The report will be made to either the local sheriff or police department depending on the jurisdiction. Reports will be made to law enforcement when the report includes an allegation which involves an adult being harmed by another person, regardless of whether the report is accepted for investigation or screened out. The harm may be in either of two (2) forms: a) commission of acts against the adult, *i.e*., physical abuse; financial exploitation; or b) omission of services needed by an adult who is left in the care of another person, *i.e*. neglect, such as when a caretaker denies the adult needed food.

Notification to the Tennessee Bureau of Investigation (TBI)

Reports which allege abuse, neglect or exploitation which does meet specific criteria specified below should be reported to the Tennessee Bureau of Investigation (TBI) **as well as** to local law enforcement. Reports should be made to the TBI agent who is responsible for the APS Social Counselor's coverage area. If the name of the agent is unknown, contact the TBI Office in the coverage area for this information. There may be circumstances in which the initial report did not meet the criteria for TBI involvement; however, during the course of the investigation, the **APS Social Counselor may uncover information which does meet the criteria. In those instances a report should be made to the TBI within one (1) business day**.

The following are criteria for reporting to the TBI:

- Abuse, neglect or exploitation occurred in a Medicaid-funded facility (example: nursing homes, institutions), or

- The alleged incident(s) occurred in a Board and Care Facility regardless of whether payment is made from Medicaid; but the resident/patient is a TennCare recipient. Board

and Care Facility include residential settings such as assisted living residences, residential homes, etc.

- Alleged perpetrator provides care in Customer's home and is getting paid with Tenncare/Medicaid monies. (i.e. CHOICES Program)

- If the counselor and supervisor feel the report warrants TBI evaluation for possible investigation even if the report does not strictly adhere to the above criteria

The report of abuse, neglect, and/or exploitation should contain at least one (1) of the following:

- Physical evidence (body fluids, visible trauma, weapons, etc.), an eye witness, or a pending medical report which may document physical or sexual abuse.

- Allegations of abuse or neglect which placed the adult in a potentially life-threatening situation, or which involve serious bodily injury, death or any type of sexual assault.
- An allegation of verbal abuse which caused the adult to reasonably fear imminent bodily injury.
- Patient-to-patient abuse will be reported **only** when there is an allegation or implication by the report source that the abuse was related to neglect by the facility staff.

Notification to the Licensing Authority

Notify the appropriate licensing authority if the report concerns an alleged victim who is a resident of, or at the time of any alleged harm, is receiving services from a facility that is required by law to be licensed, or the person alleged to have caused or permitted the harm is licensed under title 63. Some reports may require multiple notifications including the licensing board for the person and the facility. See list below:

- Persons licensed under title 63 are reported to the Tennessee Department of Health (TDOH) – Health Related Boards. Most common to APS are nurses, certified nurse's assistants, and doctors.
- Nursing Homes are reported to the Tennessee Department of Healthcare Facilities (TDOH) – Centralized Intake Unit.
- Homes for the Aged and Residential Homes for the Aged are reported to the Tennessee Department of Health (TDOH).
- Hospitals, Residential Hospice and Assisted-Care Living Facilities are reported to the Tennessee Department of Health (TDOH).
- Home Care Organizations (Home Health, Hospice, Home Medical Equipment) are reported to the Tennessee Department of Health (TDOH).
- ICF-ID facilities are reported to the Tennessee Department of Health (TDOH) – Regional Offices.

NOTE: They are certified by TDOH but licensed by TDMH

Open Arms (Knoxville, Chattanooga, and Nashville)
Mur-Ci Homes
Palmyra/New Dawn
Salem Villages
Stones River

Notification to the Department of Intellectual and Developmental Disabilities (DIDD)

When the Department receives a report alleging abuse, neglect, or exploitation of an individual served by DIDD through one of the Home and Community Based Services (HCBS) waivers by a caretaker contracted with DIDD, or employed by an agency contracted with DIDD, APS will notify DIDD of such allegations. The Department will also notify DIDD of all alleged patient to patient abuse and unlicensed facilities. The Department's notification to DIDD will be made to the DIDD Central Office Investigations Unit.

Notification to the Department of Mental Health and Substance Abuse Services (DMHSAS)

When the Department receives a report alleging abuse, neglect, or exploitation of an individual served by a Personal Support Services Agency or any employed by an agency contracted with or licensed by DMHSAS, APS will notify DMHSAS of such allegations. Also notify DMHSAS of all patient to patient abuse and unlicensed facilities.

Notification to the District Ombudsman

When a report alleging abuse, neglect, or exploitation of an adult in a long term care facility is received, APS will notify the local ombudsman of such allegations. Long term care facilities include nursing homes, assisted living facilities, boarding homes, group homes, and Homes for the Aged. This includes allegations of abuse, neglect, and exploitation by facility staff and non-facility staff such as family members. APS should also notify the local ombudsman of reports that may be screened out by APS when there is a pending eviction for non-payment.

Notification to TennCare/OIG (Office of Inspector General)

When a report alleging abuse, neglect, or exploitation of an adult by a paid caretaker paid through the Home and Community Based Services (HCBS) portion of the CHOICES program is received, APS will notify Tenncare, LTSS (Long Term Services and Supports), and office of Program Integrity of such allegations.
APS should also report TennCare fraud to the Office of Inspector General (OIG).

Notification to Childcare Licensing

When a report alleging abuse, neglect, or exploitation of an adult in an Adult Daycare facility is received, APS will notify the Childcare Licensing Division. This includes licensed and unlicensed facilities.

Notification to Vocational Rehabilitation

When a report alleging abuse, neglect, or exploitation of an adult in a state owned/operated or contracted Vocational Rehabilitation facility is received, APS will notify the Vocational Rehabilitation Division.

Out of State Reports
For all out of state reports, a notification shall be sent to the law enforcement agency in which the allegations occurred.

Notifications Chart

Allegations:	Local LE	TBI	HCF	HRB	DIDD	OMBUD	MHSAS	TNCARE	CC Lic.	Voc. Rehab
Maltreatment* by non-paid caregiver	√									
Maltreatment* by paid caregiver in facility	√	√	√	√-If licensed		√-if classified as long term facility				
Maltreatment * by paid caregiver in private home	√	√		√-If licensed				√-if paid care giver thru HCBS/Choices		
Maltreatment * of an individual served by MHSAS	√	√	√	√-If licensed			√			
Maltreatment * of an individual served by DIDD	√	√		√-If licensed	√					
Maltreatment * of an individual served by Child/Adult Daycare	√								√	
Maltreatment * of an individual served by Vocational Rehab Facility	√									√

Chapter 6: Health and Safety

Legal Authority – Tenn. Code Ann. §§ 71-6-101 et seq.

Purpose

In the performance of their duty, APS staff may find themselves in situations which pose some hazard to their safety and/or well-being, whether from communicable disease, a contaminated environment, criminal activities in the community, hostile and angry individuals or other hazardous conditions. Staff is never expected to jeopardize their life, health or safety.

Physical Safety

While most individuals do not present a danger to the APS Social Counselor, it is possible that staff will encounter customers and families who, in a crisis situation, become hostile or physically violent. The counselor can use strategies and techniques to help diffuse anger and hostility and enhance the working relationship. There can also be some instances in which individuals or situations may pose a physical threat. The counselor may in these instances contact the appropriate law enforcement agency for officer assistance on the visit after consulting with a supervisor. For emergency situations call 911.

Encounters with the Production and Use of Methamphetamine during Investigations

The production and use of methamphetamine (meth) poses serious risks for the APS staff and customers. It is critical that steps are taken not only to protect customers, but to also ensure the safety of APS staff. If a report is received in which there is reference to possible methamphetamine production or use, **DO NOT** go out on the report without taking steps for your protection. Immediately contact your supervisor to plan for taking personal safety precautions and coordinating efforts with law enforcement.

Contagious Diseases

It is important to note that it is not uncommon for the APS population to be residing in situations which may be conducive to contracting serious contagious diseases. There will be occasions when APS staff is called upon to investigate reports involving individuals suffering from contagious diseases. For staff safety, the Health Department should be contacted to determine the risks and safety factors for staff prior to contact with the infected individual.

Workman's Compensation

When APS staff is exposed to communicable disease, other health hazard or incur injury to self or damage to or loss of property while in the performance of the job they may be eligible for compensation for medical expenses or for property loss/damage.

Physical Assault of APS Staff during the Course of Employment

The Department has taken the position for several years that if a staff member is assaulted, they may, on their own volition, seek criminal charges against the assailant. If an employee is assaulted they must file a serious incident report. HS-2802

Staff should know that, while the Department may agree in the abstract that the filing of the criminal charges by an individual who has been assaulted is justified in a given case, the individual is not filing the charges in their official capacity as an employee of the State of Tennessee. They are filing only as Jane/John Doe, private citizen, not as "Jane/John Doe, APS Social Counselor; TDHS."

Should the staff member be subject to a civil action by the alleged assailant as a result of any such charges, the State will more than likely not agree to provide legal representation or pay a judgment against them since the action is private and not within the scope of their employment. For this reason, staff should proceed with care and be very sure of the facts when filing a warrant. It is suggested that the staff person discuss this with the District Attorney's Office before proceeding with filing any criminal charges.

TDHS Office of General Counsel will not advise a staff member to file criminal charges in a specific incident even if the incident upon which the charges would be based arises out of their employment. The Department's attorneys can provide information about the law and the legal process involving criminal actions in order to inform staff what actions constitute a crime. This is not to be construed by program staff as legal advice since the Department's attorneys cannot provide advice involving legal actions that are not directly associated with Department programs.

Staff should know that the District Attorney has discretion regarding whether or not to prosecute a case. The DA may decide not to prosecute a technical violation of the law if the harm from the alleged assault is minor. DHS Office of General Counsel will not provide representation in criminal court or prosecute the case. The DA's office will represent the State, and indirectly, the APS Social Counselor as a crime victim.

If a staff member is injured on the job by an assailant they should file a worker's compensation claim and may also have a cause of civil action against the individual, for which independent legal advice should be sought. Information regarding worker's compensation can be found at http://www.tn.gov/labor-wfd/wcomp.shtml.

Chapter 7: Investigation

Legal Authority

Tenn. Code Ann. §§ 71-6-101 et seq.

Purpose

To investigate means to systematically inquire into an allegation and to examine it in detail. As information is gathered during the life of the case, it will be used to determine the validity of the allegations, and who the perpetrator is, if applicable and possible. The information gathered will be utilized to complete the risk factor matrix and determine the overall service needs of the customer. Information gathered during the investigation of the case will be documented in the electronic case narrative within the case management system. It may also be determined that the customer does not need protective services, but they may wish to be referred for other available social services.

Upon receipt of an assigned report of suspected abuse, neglect or exploitation, the Department is required to initiate an investigation. To achieve the goal of reducing or eliminating the risks to the customer, a thorough investigation is necessary. It is possible that the allegations may be unsubstantiated. During the investigation, other protective service needs may be identified which must be addressed. Once the investigation is completed, the case will be closed or transferred to on-going services.

Timeframes for Investigation

Timeframes for investigation must be completed based on priority level. These priority levels are listed below:

- **Priority A** – Requires initiation of an investigation through a face to face interview with the customer by APS Staff or Law Enforcement within twenty four (24) hours on the date of assignment. If Law Enforcement is utilized for the initial contact, APS staff shall have follow up contact with the Law Enforcement entity that responded and have a face to face contact and interview with the customer within two (2) working days.

- **Priority B** – Requires initiation of an investigation through a face to face interview with the customer by APS Staff within one to five (1-5) working days of assignment.

- **Priority C** – Requires initiation of an investigation through a face to face interview with the customer by APS Staff within one to seven (1-7) working days of assignment.

NOTE: The appropriate time to add an allegation during an investigation.

During the course of your investigation the client gives you information about another allegation regardless of whether the allegation involves a new or existing perpetrator or self-neglect.

Note: If the client alleges a different type of abuse/neglect/exploitation or self-neglect during the course of the investigation, the allegations and/or alleged perpetrators are to be added to the current referral, regardless if the AP is same or different. However, if additional allegations are received by a different referent (not client), a new referral is to be created and screened according to policy.

Special Provision in Emergency Situations—Use of Law Enforcement

In specific situations the supervisor may approve a request from the assigned APS Social Counselor to ask law enforcement in the customer's county to check on the customer's condition and safety. Some examples are:

- The call was received after hours; or
- The only way to ensure that a client in alleged dangerous circumstances is seen immediately is to ask local law enforcement to do a "welfare check"; or
- Multiple reports requiring immediate response are received on the same day; and
- Neither the assigned counselor nor their supervisor is able to respond to all the emergency reports on a timely basis; and
- Counselors in contiguous counties are unable to respond to the emergency reports.
- If inclement weather conditions making it unsafe for social counselors to travel, can be used on emergency and non-emergency reports.

Good Faith Attempt to Meet Response Times for Initiation of the Investigation

There must be a good faith attempt to meet those response times described above. All good faith attempts to initiate the investigation within time frames must be documented in the case management system. "Good faith attempts" or "diligent efforts" are defined as those persistent, relevant attempts to meet the policy time frames for initiation of an investigation. Good Faith attempts could include locating the customer HS-3151 (Postmaster address request**)** (**Accessible through TNAPS; back-ups available on the forms page*) When time frames for initiating the investigation are not met, the counselor must also complete the ***Diligent Efforts/Good Faith Attempts Contact*** HS-3137 (**Accessible through TNAPS; back-ups available on the forms page*). All investigative activities must be reviewed and approved by the APS Field Supervisor at case closure.

If staff is denied access to the customer by the caregiver, customer or other individuals, the legal authority to see the customer will be explained to those individuals. If access is still denied, the APS Staff will immediately contact the supervisor for additional instruction.

Diligent Efforts/Good Faith attempts to Engage Services with a Customer or Caretaker who is Resistant to the Investigation

If a customer is resistant to or refuses all services, it is required that the APS Social Counselor attempt to encourage acceptance by using diligent efforts. There must be a good faith attempt to assess the need for services with the customer and/or caregiver.

All good faith attempts must be documented in the case management system. If the customer/caregiver cannot be engaged then the counselor must also complete HS-3139, ***Diligent Efforts to Attempt to Engage Services*** (**Accessible through TNAPS; back-ups available on the forms page*). Refusal of services should not be confused with refusal of an investigation. All refusals of an investigation should be discussed with the APS Field Supervisor and TDHS Office of General Counsel. All investigative activities must be reviewed and approved by the APS Program Supervisor at case closure.

Self Determination

Clients, regardless of age or condition, have a right and responsibility to direct their own lives to the extent that it is possible for them to do so. This means that each client will:

- Be given every opportunity to make plans for himself/herself to the degree possible;
- Be given full and honest information about the alternatives and options that are available to assist in making an informed decision;
- Be given the opportunity to direct the degree and order in which services are provided; and
- Be protected through APS intervention when the client's capacity for self-determination is impaired and the risk of irreparable harm or death is high.

If a client has the capacity to understand and make decisions and is in need of relocation but refuses relocation despite the counselor's best efforts, then APS will continue to provide whatever services the client will accept in his/her current environment that will improve the client's level of safety.

In providing protective service, there may be differences between how the client perceives the problem and the APS safety assessment. Accordingly, situations may arise in which the client, or others involved with the client, objects to a plan which the agency believes to be best for the client and will provide the greatest level of safety. In such situations, it is the responsibility of the Social Counselor to encourage acceptance by using diligent efforts. By doing so, the client may ultimately agree to the plan or at least some level of services which reduce risk and enhance safety at least to some extent. In such situations, APS will accept the client's right to self-determination and provide those services to which the client will agree. **In no event should such a situation be viewed as a refusal of services.**

Although the principle of self-determination requires that clients be free to make their own decisions, it is the responsibility of the Department to protect the client when capacity for self-determination is impaired.

Possible Indicators of Lack of Capacity

Any sign that a customer has trouble recognizing problems, developing plans to address those problems or difficulty carrying out the identified plans should be taken as an indication of possible incapacity.

When a customer at crisis or vulnerable status level accepts services, appropriate actions to implement services should be taken in a timely manner and the supervisor should be consulted about possible legal intervention and one or more of the following exist:

- Services accepted and provided do not significantly improve the level of safety
- The customer appears to have diminished decision-making capacity; and
- The customer does not have a support system sufficient to keep the customer safe.

Gaining Entrance into a Customer's Home

APS law requires a personal interview with the alleged victim. This interview initiates the investigation. When counselors visit a home, the counselor should only enter if invited unless a

search warrant to enter the home is obtained. Counselors should not enter a home when no one is home. Many customers reside in their home or the home of others. While a visit is required, it is important to be aware that APS cannot enter a home uninvited except under very specific circumstances. Entering a home uninvited not only is a violation of an individual's privacy, but could result in criminal trespass charges being filed against the APS Social Counselor. Consultation with the APS Field Supervisor and TDHS Office of General Counsel is required. If there is a "no trespassing sign," TDHS Office of General Counsel should be contacted for guidance. Document the response in the case management system.

Abbreviated Assessment

The abbreviated assessment (HS-3128) (**Accessible through TNAPS; back-ups available on the forms page*) is a tool which may occur under specifically identified circumstances when there is no identified need for a full investigation to determine the need for protection. The use of the abbreviated assessment will be conducted in the case management system. Use of an abbreviated assessment will require supervisor approval and must be completed within thirty (30) calendar days from the date of the report assignment.

An abbreviated assessment may occur under the following circumstances:

- Requests for a home study only.
- Upon initial contact with the alleged victim and there were no indicators of abuse/neglect/financial exploitation as originally reported. There were no other indicators to suggest that additional intervention by APS is warranted.
- When APS Social Counselor finds that allegations have been addressed and resolved with an APS assessment and no face to face is needed.
- Allegations have been addressed and resolved without APS assessment.
- The APS Social Counselor is unable to locate the alleged victim in the first thirty (30) days following diligent efforts.
- Courtesy Interview for another state.

The abbreviated assessment may not be used for the following:

- If the alleged perpetrator is a paid caregiver.
- If the allegation is sexual abuse
- If the victim is deceased
- If the supervisor does not approve the use of the abbreviated assessment

Guidelines for Completing Investigations for Non-Facilities, Facilities, and Institutions

Required Activity	Self-Neglect	Physical Abuse	Sexual Abuse	Financial Exploitation	Neglect by Caregiver	Emotional Abuse
Face to Face Contact/Interview with the customer alone (HS-3125 APS interview checklist)	√	√	√	√	√	√
Home visit **and/or visit to current living arrangement if applicable**	√	√	√	√	√	√
Research prior APS records, if they exist, including a check of the Vulnerable Persons Registry if the alleged perpetrators a paid caregiver.	√	√	√	√	√	√
Collateral Contacts[1]	√	√	√	√	√	√
Notification to referent of outcome of APS investigation[2]	√	√	√	√	√	√
APS Assessment HS-2971	√	√	√	√	√	√
Refer for services if appropriate	√	√	√	√	√	√
Verification of type of health insurance: TennCare/Medicaid, etc.	√	√	√	√	√	√
Notification of Animal Cruelty to local animal shelter-when applicable	√	√	√	√	√	√
Obtain medical/mental health records (including photographs), or obtain information from medical/mental health professionals who have information about the customer. **Medical** Records Request Financial, Legal**, and Personnel Records Request** HS-3138 **Death Certificate Request**	√	√	√	√	√	√
Obtain mental health evaluation if needed.	√	√	√	√	√	√
Obtain incident reports, school records and check law	√	√	√	√	√	√

[1] *Formal service providers, referent, others determined to have critical information about the current allegations for risk of harm; and witnesses.*

[2] *APS has completed its investigation and will continue to be involved, providing on-going services; or APS has completed its investigation and will be closing its case; or services were offered and refused and case is being close.*

Required Activity	Self-Neglect	Physical Abuse	Sexual Abuse	Financial Exploitation	Neglect by Caregiver	Emotional Abuse
enforcement records if needed[3]. Law enforcement records check request						
Send form HS-0875 **to law enforcement and licensing agency[4]**		√	√	√	√	√
Interview the alleged perpetrator if a paid caregiver		√	√	√	√	√
Take photographs/video of the customer and the customer's circumstances if relevant to the allegations unless taking the photographs or video substantially impedes the investigation by agitating the customer or if directly told to stop by the customer who appears to have capacity, or if told to leave.	√	√	√		√	
Complete body diagram or obtain medical documentation/evaluation if there are visible injuries HS-2621		√				
Notify law enforcement by phone if sexual assault occurred within 72 hours of receipt of report			√			
Obtain a sexual assault medical evaluation within 72 hours and obtain results.			√			
Obtain copies of financial information and identify the location of institutions where the customers assets may be located HS-3136 **Financial Records Subpoena** *APS Records Request*				√		
Determine if the customer has either an "attorney-in-fact", i.e., a person with a Power of Attorney (POA) or a conservator with authority over the customer's finances or						

[3] *Only required when needs are not met when customer is resistant. If needs are met and customer does not want to give bank info, document attempts and discuss with APS Field Supervisor prior to closure.*

[4] *Send to all appropriate agencies, see procedure manual*

Required Activity	Self-Neglect	Physical Abuse	Sexual Abuse	Financial Exploitation	Neglect by Caregiver	Emotional Abuse
other person in a fiduciary capacity such as a trustee from whom the customer receives funds.				√		
Review customer's financial records/information	√					

[5] *Medical Records/VA Medical records, and/or financial records should be obtained from the pertinent agencies*

Required: If actions are not taken/completed, the APS staff will document reasons why in the case management system.

Photography/Video

The purpose of photographs and video is to document an injury or lack of alleged injury; the physical condition of the customer; incident scenes; and living environments. It is important to take photographs and/or video in every case where a customer has, or is alleged to have, injuries that may have been caused by abuse or neglect. Photographs and/or video should also be taken of living environments that constitute a health or safety hazard to the customer, especially when going to court is a possibility. When possible, APS staff should also take photographs and/or video to document any type of physical evidence (for example: a belt that was used to hit the customer; the customer's bed that is torn and soiled; or large holes in the customer's floor); and extensive cleaning and/or repairing of customer's home or yard (before and after photographs).

In documenting the existence or nonexistence of injuries, the APS Social Counselor should take all photographs as soon as possible.

The Customer's Right to Refuse Photography

In general, photographs of customer's injuries should be taken even if this requires the customer to remove clothing or display areas considered private. Customers have the right to refuse to be photographed or to have their homes photographed. If a customer does refuse, the APS Social Counselor should explain that photographs are important evidence and that they may be useful in protecting the customer and providing services. Consent for photos has never been an issue. Such discussions should not be pressed to the point of jeopardizing the customer's cooperation with the investigation. If the customer continues to refuse, do not take the photos and document the refusal in the case management system. If photographs are deemed essential to the investigation, contact the APS Field Supervisor and TDHS Office of General Counsel.

Tape Recorded Interviews

Tape recorded interviews can often enhance an investigation. It is important to note that tape recording an interview with a customer may be intimidating to the customer and should be carefully considered. There may be times when it is important to accurately capture the interview of an alleged perpetrator, especially if the individual is a paid caretaker and may require due process. If the individual refuses to participate in a taped interview, APS staff must

take thorough and accurate notes. In tape recording an interview, APS staff must follow specific procedures.

Guidelines for Completing an Investigation in a Facility or in an Environment in which there is a Paid Caretaker who is the Alleged Perpetrator.

Residents of institutions/facilities, who are believed to be abused, neglected and/or exploited, are to be reported to TDHS Office of General Counsel. This is the same as adults who live in private residences.

> **Exception:** The Tennessee Department of Human Services shall not be required to investigate, and the Tennessee Department of Mental Health Substance Abuse Services (TDMHSAS)and the Tennessee Department of Intellectual and Developmental Disabilities (DIDD), as well as ICF's that are state-owned and state-staffed by DIDD, shall not be required to report to TDHS any allegations of abuse, neglect or exploitation involving its residents that occur within any institutions operated by TDMHSAS or DIDD. Allegations occurring in TDMHSAS or DIDD owned/operated facilities shall be investigated by investigators of TDMHSAS or DIDD as appropriate. Refer to Chapter 3, Intake, for a list of those facilities.

Allegations of any incidents which involve residents of TDMHSAS or DIDD owned/operated facilities but occur outside the premises of the institution's facilities, or that occur in community residences licensed by TDMHSAS or DIDD or in facilities licensed by another authority, shall be reported to and investigated by TDHS/APS**.** In a case in which APS conducts an investigation in a facility or requires access to persons or information in a facility, APS will generally be dealing with the administrator of the facility.

All guidelines listed above by allegation apply when completing an investigation of a customer who resides in an institution or a facility.

In the course of the investigation, APS staff will have the authority to enter a DIDD facility or a TDMHSAS facility to have access to the customer and to any other persons or records in the facility which are needed to conduct an investigation.

DIDD, TDMHSAS, TDOH/HCF (Tennessee Department of Health/Health Care Facilities), and Licensed Health Care Facilities investigators and APS staff are encouraged to conduct investigations jointly if it is appropriate and when possible, including scheduling of interviews, etc. This will be determined on a case-by-case basis. When conducting joint investigations, each agency will share relevant information. The APS investigation will be initiated within response time frames as required by APS policy.

All interventions available to the APS program through services or legal action will be used as appropriate in cases in which abuse/neglect/exploitation occurred while the resident was in the care and control of an individual who is not a staff member of the facility and the incident occurred off-site.

When TDHS is unable to find a resource for any person in need of protective services who, because of mental or developmental disabilities, is in need of specialized care or medical treatment, the TDMHSAS and DIDD shall, based upon available resources, give priority to such person for appropriate placement or treatment if such person is eligible for placement. (HS-2987

Request for assistance from DIDD; HS-2988 Request for Assistance from TDMHSAS)
(*Accessible through TNAPS; back-ups available on the forms page*)

Tennessee Department of Health (TDOH)

The Tennessee Adult Protection Act mandates that the Department of Human Services provide protection to residents of licensed and unlicensed health care facilities just as it mandates protection for adults in other living arrangements.

The Tennessee Department of Health has the legal responsibility to license facilities which provide varying levels of health care services. These include Hospitals, Nursing Homes, Assisted Living Facilities, and Homes for the Aged.

Responsibilities of APS Staff Regarding Investigating Reports in Health Care Facilities (HCF)

When investigating reports occurring in HCF's, APS Staff must:

- Notify HCF Licensing immediately of reports which allege physical or sexual abuse or life threatening neglect of a resident in a licensed or unlicensed health care facility.
- Notify appropriate regional office of reports received after hours the next business day.
- Notify HCF Licensing of any event in which a **licensed facility** does not report allegations of abuse, neglect and/or exploitation of an adult in its care **in a timely manner as required by state law**. Notification may made by telephone, but will be followed by a brief written notification to the appropriate HCF regional office that includes:

    - The name of the facility;
    - The name of the alleged victim;
    - The date on which the incident became known to the facility;
    - The date on which the report was made to APS;
    - A brief statement of the type of alleged maltreatment.

- APS will refer to the TDOH Centralized Complaint Intake Unit at 1-877-287-0010 complaints alleging conditions which do not warrant an APS investigation. This includes any conditions the counselor may encounter in the facility at any point in the investigation that raise concerns about the conditions or general quality of care being provided in the facility. Notification may occur by telephone or by use of HS-0875, ***Report of Alleged Abuse, Neglect, or Exploitation of an Adult.*** (**Accessible through TNAPS; back-ups available on the forms page*)

Special Considerations for Investigations in Unlicensed Facilities

The investigative process is essentially the same for APS in both licensed and unlicensed health care facilities. HCF staff has no authority to enter the premises of an unlicensed facility, as it is essentially private property. APS staff will recognize that HCF staff cannot enter an unlicensed facility, either with APS staff or independently unless HCF staff has the provider's permission. HCF staff will not conduct an investigation in an unlicensed facility. In all other matters of collaboration/sharing information, the relationship between APS and HCF is the

same. TBI will need to advise APS staff regarding the TBI's authority to enter the unlicensed facility in question.

Joint or Independent Investigations with Any Agency (TDMHSAS, DIDD, TBI, Local law enforcement, TDOH HCF)

There will be occasions when APS staff and investigators from other agencies will be involved in investigating a report of allegations regarding the same victim. In those instances, the preferred method of investigation would be for all agencies to investigate jointly. Due to time frame requirements of other agencies, it may be necessary for APS to conduct an independent investigation.

Required Activities for APS in Joint/Independent Investigations

In instances where there are multiple agencies involved in the same investigation, there may be certain activities that could be delegated to the other agency. In these instances, it is critical that information is shared with APS so that staff is able to complete an assessment and investigation to ensure that vulnerable adults are protected. Investigative activities may include interviews of victims as well as witnesses and collaterals.

Guidelines for Investigating Deaths Alleged to be the Result of Abuse, Neglect or Exploitation by a Caregiver or Unknown Perpetrator and Where Other Vulnerable Adults are at Risk

There may be situations where a report is received and assigned for investigation on a deceased adult. In addition, APS may have an open case on a customer when the customer dies due to apparent abuse/neglect/exploitation. In both instances the APS investigative staff must follow specific steps.

Death Investigations

There are certain activities that are critical when investigating the death of a vulnerable adult. It is important to obtain as much information as possible in order to protect other vulnerable adults who may have contact with the alleged perpetrator.

The responsibility of APS is to protect vulnerable adults who may be in danger. While it is not the role of APS to prosecute, it is important for APS to have operating agreements with law enforcement regarding investigations of cases involving death. While there will be times when it is more appropriate for law enforcement to take the lead in an investigation, APS cannot allow endangerment of other individuals who might be at risk. APS should continue investigating the allegations to ensure other individuals are not at risk while law enforcement is investigating the alleged criminal act.

APS must follow specific investigative requirements, some of which may be completed by law enforcement. Information from interviews performed by law enforcement should be obtained and documented in the case management system.

Investigation Conclusions

At the point of concluding an investigation there are certain activities that must be in place. The APS Social Counselor will either close the case or transfer to on-going services. APS staff shall

formally complete all investigative tasks, case recordings, and safety assessments within sixty (60) calendar days of the assignment date of the report and document in the case management system. All case closures and investigative activities will be reviewed and approved by the APS Field Supervisor.

Extensions for Incomplete Investigations at sixty (60) days
There may be situations when, due to circumstances beyond APS staff control, they are unable to complete an investigation within the sixty (60)-day time frame.

Appropriate instances:

- Unable to locate individuals who are critical to the outcome of the investigation;
- Involved in a joint investigation and the other agency is unable to complete their part of the investigation in sixty (60) days; and/or
- Investigating a case that is extremely complex and requires additional time to complete a thorough and accurate investigation.
- Possible Due Process.
- Client death-Pending for Official Cause of Death.

Inappropriate instances:

- Absences of APS staff or
- Staff inability to complete investigations for other than the reasons stated above.

The APS social counselor will make three (3) attempts to notify the reporter of completions of investigation. All three (3) attempts must be documented in the case management system. Leaving a voice mail message is considered an unsuccessful attempt. An attempt is considered successful when the social counselor actually speaks to the reporter.

Ethical Issues

Purpose:
The mission of APS staff is to protect vulnerable adults from abuse, neglect or financial exploitation. The population APS protects is by definition vulnerable (impaired, dependent, unable to protect themselves). All APS staff has a duty to avoid financial, business, personal or other relationships which might compromise the public's interest or cause a conflict with the performance of their duties. APS staff by the nature of the work they do must have the highest ethical standards as identified in the Employees Code of Ethics. Refer to the DHS Employee Code of Ethics. http://www.intranet.state.tn.us/dhs/info/dhs-code-of-ethics.pdf

Relationships with Customer

It is important for APS to conduct themselves as professionals not only in open APS cases, but also in closed APS cases. Due to the nature of the customers and issues involving social work, it is not uncommon for customers to develop a dependency on APS staff. Due to the population served by APS, staff may be the primary support for customers. However, it is critical for APS staff to understand that the relationship is professional and not personal. This dependency often results in counselors receiving calls from customers in closed cases asking for assistance. In order to protect the integrity of the counselor and the Department of Human Services, the APS supervisors, social counselors, Intake and/or collateral contacts must not:

- Initiate continued contact with a customer once the case is closed,
- Authorize services on a closed case,
- Provide any type of activity on a closed case without permission of the supervisor,
- Sign any legal document as POA, Healthcare Advocate or in any other capacity on behalf of the customer on open or closed cases,
- Discuss with the customer any of the Social Counselor's own personal issues,
- Be allowed on-going access to a customer's home in the absence of the customer.

The key questions to be answered when performing the duties of a Social Counselor are:

- Is the activity to be performed in the scope of employment?
- Could the activity give the impression of a conflict of interest or unprofessional behavior?

Guidelines

There are guidelines that apply to all APS customers – customers with substantial amounts of real or personal property, or substantial liquid resources in a financial institution, as well as those with only modest personal possessions.

The APS focus is on the safety and welfare of the individual. APS does not want to assume responsibility for belongings or funds of customers. There are times when the customer's well-being may, to some extent, be affected by what happens to their possessions or other resources. See the procedures manual for a listing of guidelines. HS-3118 (**Accessible through TNAPS; back-ups available on the forms page*)

Handling Customer's Property/Possessions

- There are two (2) basic rules to follow when handling a customer's property/possessions:
    - APS staff is never to profit or gain from any contact with an APS customer or from access to their property, possessions, resources, funds, etc.
    - It is important to avoid even the appearance of a conflict of interest in contacts with APS customers, or access to their property, possessions, resources, funds, etc.
- There are two (2) primary types of situations in which the access to and handling of a customer's property/possessions may become an issue. These situations are:
    - Cases in which APS is involved in legal action to place or remove a customer under the protective services program, or
    - Cases in which APS is investigating, assessing or providing protective services to a customer but legal action has not been initiated or planned.

Violation of this chapter will be Grounds for Disciplinary Action.
Criminal and Civil Actions T.C.A. § 39-16-402

Any TDHS staff person who improperly disposes of a customer's property or resources will be referred to the TDHS OIG and may be subject to charges of theft or fraud as well as civil litigation seeking recovery of property or funds improperly taken or received from the customer. Additionally, the law governing official misconduct by government officials states that a

government employee who uses his/her position for profit or gain may be prosecuted for a Class E felony.

Chapter 8: APS Assessment

Legal Authority

T.C.A. 71-6-103

Purpose

The APS Assessment process provides a mechanism and tool to assist the APS staff in identifying and assessing relevant safety information, strengths, risks and underlying needs of APS customers. The information gathered and evaluated in the APS Assessment will assist the APS staff in making decisions about the safety of customers, measure improvements and outcomes, insure the development of service plans when warranted, and facilitate appropriate service provision.

Policy

APS Assessment is a process by which the APS Social Counselor evaluates, on a continual basis, the safety of the customer and the outcomes to the customer based on APS intervention. The APS Assessment shall be completed on **every** case unless the case is closed without investigation or the customer is deceased. HS-2971**,** APS *Assessment,* (**Accessible through TNAPS; back-ups available on the forms page*) will be completed using the information obtained during the investigation. The assessment process enables the APS Social Counselor to review all information obtained and make decisions regarding the need for services.

- **When to Complete an Assessment**
    - At the beginning of an investigation-Pre-Assessment
    - Prior to closure of an investigation-Post Assessment
    - Every six (6) months for ongoing services cases to include custody cases- Periodic Assessment
    - Any time an APS Social Counselor deems an Assessment necessary
    - At the closure of an on-going services case-Closure Assessment

- **Elements of the APS Assessment**

For each APS Assessment, the following eleven (11) indicators must be evaluated:

- Environment
- Financial
- Physical Health
- Mental Health
- Substance Abuse
- Developmental Disabilities
- Activities of Daily Living (ADL's)
- Informal Supports
- Formal Agency Supports
- Caregiver
- Elements of Abuse/Neglect

The risk factor matrix-link located in the procedure manual should be used as a guide in conjunction with the indicators of the APS Assessment to more accurately determine whether the customer's level of safety is crisis, vulnerable, stable, or thriving.

- **Assessment of the Customer's Condition and Circumstances**

  Completion of the APS Assessment will:

  - Identify what information is known to the counselor,
  - Identify the level of safety for each aspect evaluated,
  - Evaluate each aspect of the adult's circumstances and condition independently of the others,
  - Determine the levels of safety of the customer,
  - Determine the strengths of the customer,
  - Calculate an overall score reflecting the customer's current circumstances,
  - Assist in determining a need for services,
  - Allow the APS staff to measure outcomes when completed after an investigation that included provision of services,
  - Allow the APS staff to measure outcomes at appropriate intervals in a case in which there is ongoing service provision.

Chapter 9: Documentation of APS Cases

Legal Authority

T.C.A. 71-6-103

Purpose

The manner in which activities are documented is called case recordings. It is essential that the case file accurately reflect what has transpired with a customer who is receiving services from APS. The purpose of case recordings is to substantiate the counselor's actions and conclusions. APS records are business records of the Department and thus must reflect true, accurate and unbiased information. The accurate and timely recording of facts regarding a case enables the submission of the case record as a business record in legal proceedings in the absence of the APS Social Counselor, who observed facts regarding the case. The records may be the subject of a discovery preceding that precedes litigation, and the counselor may be questioned as to the accuracy of the record and the counselor's observations and descriptions of events. It is necessary for APS staff to document all activities conducted in an APS case.

Case Recordings

Each customer's record must include a description of each contact made on the case. The descriptions provide a means to organize and analyze case information. All major case decisions must be supported by the dictation entries and/or assessment information HS-2971. (**Accessible through TNAPS; back-ups available on the forms page*) All contacts are to be documented as case recordings in the case management system within five (5) working days of the contact. It is recommended that staff use the APS Interview Checklist (HS-3125) (**Accessible through TNAPS; back-ups available on the forms page*) to ensure that all information needed is gathered in a timely and organized manner.

Chapter 10: Courtesy Interviews/Transfer of Cases

Legal Authority

T.C.A. 71-6-101 et.seq.

Purpose

It may be necessary to interview or visit individuals involved in a case who do not reside in, or may be absent from, the assigned counselor's area of coverage. The individuals(s) may be the alleged victim, alleged perpetrator, and/or family and friends as well as others who may have pertinent information. APS staff may make a request to another APS unit to conduct the interview.

Request for Courtesy Interview

During an APS investigation and/or the provision of services, and prior to requesting a courtesy interview, APS staff should take into consideration the impact of the request on case activity.

Courtesy Visit

In some instances, the case may not need to be transferred but may need a courtesy visit by a APS Social Counselor in the region to which the customer has moved. If the APS case remains open, but the investigation has been completed, the assigned APS Social Counselor will submit a request to their APS Field Supervisor for a courtesy visit. A courtesy visit conducted by an APS Social Counselor in the region to which the customer has moved can determine whether or not the customer needs continued APS services. If the customer appears to be in a safe and protective environment with no apparent service needs, the APS Social Counselor who has conducted the courtesy visit will enter the information in the case management system.

Transfer of APS Cases

There may be times when a customer moves from the area of one assigned counselor to another area of the State resulting in a need to transfer an active case to another APS unit or coverage area. This may occur during the investigation or while on-going services are being provided.

Chapter 11: Interstate

Legal Authority
T.C.A. §§ 71-6-101, et seq.

Purpose

While there is no APS Interstate Compact Agreement, there are situations in which APS would respond to requests from APS in other states as a matter of courtesy. This cooperation is related to the potential need for similar assistance from other states on similar case situations.

APS Request for Assistance to Other States

While working with an adult in a protective services situation, it may be necessary to make contact with a family member or other resource in another state. The APS Social Counselor may contact the family member or the appropriate agency directly.

Home Studies

There may be an occasion when APS in another state is conducting an investigation or working on a case in which there is a need to have a home study conducted on an individual who resides in Tennessee. These requests should go through the Centralized Intake Unit. APS does not make recommendations in home studies unless requested by a Tennessee court.

Courtesy Interview

There may be instances in which APS in another state is investigating or working on a case and they request that APS in Tennessee interview a Tennessee resident. This interview is called a courtesy interview. For courtesy interviews done on behalf of other states the APS Social Counselor will do the following:

- Interview the individual to obtain the information requested
- Provide a report that contains no recommendation, but only the information obtained by the APS Social Counselor

Court Orders Received from another State

There are times that Tennessee APS may receive a court order from another state ordering Tennessee APS to conduct a home study, courtesy interview, placement or a recommendation. These requests must go through the Centralized Intake Unit.

Chapter 12: Investigation Classification

Legal Authority

T.C.A. §§ 71-6-103

Purpose

To ensure that all APS investigations are properly classified, the APS Social Counselor must organize, analyze, and weigh the investigation information to derive a classification for the investigation. The classification process is multi-tiered. Based on the assessment (HS-2971) (**Accessible through TNAPS; back-ups available on the forms page*) and the evidence gathered, the APS Social Counselor must determine the disposition of the allegation, the perpetrator determination, the classification of the investigation and the need for continued APS intervention. The investigation shall be classified as soon as it is complete, do not leave cases open in investigation while waiting on any type of services, the case should be moves to on-going services if the investigation is complete but services are still needed.

Standards of Evidence for Investigation and Classification of Allegations

- The standard of proof for purposes of determining if the allegation is substantiated or unsubstantiated and for the provision of protective services to that customer with the customer's consent is "**substantial and materia**l **evidence".** Substantial and material evidence is relevant credible evidence that an event has occurred/factual situation exists that makes it reasonable to act upon that evidence.

- The standard of proof required for indicating a perpetrator and/or for considering legal intervention on behalf of a customer **is "preponderance of evidence"**. Preponderance of evidence means that the greater weight of the evidence demonstrates that it is more likely than not that something has occurred.

- The evaluation of whether the evidence meets this standard will ultimately be made by the Department's attorney for the case, but, in determining if a case is ready to submit for a legal referral,HS-2752, for legal action on behalf of the customer, or to indicate A/N/E (Abuse/Neglect/Exploitation) by a perpetrator against the customer, the evidence that is gathered must be of such quantity and quality that it will meet this standard in order to initiate legal action by the Department.

- The evidentiary standard that is required for a criminal conviction is known as "**beyond a reasonable doubt".** The State must prove that each element of the criminal offense happened and that the crime was committed by the defendant. This does not mean that the State must prove that the defendant committed the offense "beyond all doubt", or "beyond a shadow of a doubt," only that they are guilty beyond a "reasonable" doubt. If called upon to testify in a criminal case involving the abuse of a customer, any evidence provided by the Department's staff will be used to reach this standard of proof.

Determination of an Investigation

- The APS Social Counselor must dispose of an allegation by determining whether it is substantiated or unsubstantiated. They must also determine the alleged perpetrator(s) as indicated, unfounded, unable to determine or unknown. Exception: the allegation of self-neglect has no perpetrator. Each allegation must be separately addressed, and the basis for indicating each alleged perpetrator must be analyzed in relation to the allegation.

- Case classification is auto derived by the case management system and is based upon the allegation disposition. The case classifications will be one of the following:

  - Valid as to the existence of A/N/E
  - Valid threat of harm due to A/N/E
  - Invalid or
  - Incomplete

:

Disposition of Allegation:

- **Substantiated** - Determination that the information gathered during the investigation supports that A/N/E or self-neglect occurred. This classification is based on substantial and material evidence that the allegation did occur.

- **Unsubstantiated** - Determination that the information and evidence gathered during the investigation does not support that A/N/E or self-neglect occurred or that the customer is at risk.

Determination of Perpetrator: Non Paid

- **Perpetrator Indicated**
  To indicate the alleged perpetrator, there must first be a substantiated allegation of A/N/E. There should be credible evidence (facts) of one or more of the **factors** below, or other reliable and credible evidence, that meets the standard of "preponderance of the evidence**":**

  - A/N/E of a customer has occurred; and
  - That a particular individual is responsible for the A/N/E involving that customer.

- **Perpetrator Unfounded**
  The indication of an alleged perpetrator is unfounded when the information gathered in an investigation cannot substantiate by a preponderance of the evidence that the person named as the alleged perpetrator committed the alleged acts, even if A/N/E of the customer is substantiated.

- **Perpetrator Unknown**
  The perpetrator is unknown if sufficient information does not exist to identify a perpetrator or if no specific individual is alleged to be the perpetrator.

- **Unable to Determine Perpetrator**

An alleged perpetrator may be named, but there is not enough evidence to establish beyond a reasonable doubt (or preponderance) that the allegation(s) can be directly attributable to circumstances resulting from his/her actions or lack of his/her actions.

Classification of Investigation Results:

- **Valid:** Allegations of A/N/E upon which the investigation was based are determined to be "valid."
    - If the factors described above, or other credible evidence, demonstrate "substantial and material" evidence of the occurrence of A/N/E, this permits the provision of protective services to the customer with the customer's consent; or
    - If the allegations of A/N/E meet the "preponderance of evidence standard" that A/N/E has occurred, and, if applicable, that a particular person or persons committed A/N/E against the customer, then protective services can be provided without the customer's consent by way of a court order obtained by the Department's legal staff and, if applicable, a perpetrator can be indicated.

- **Valid Threat of Harm:** There has been no substantiation of allegations that A/N/E or self-neglect has occurred but, there is reason to believe that, without intervention, there is a substantial probability that harm will occur to the customer in the immediate or foreseeable future. With a finding of "Valid Threat of Harm," the customer is considered at risk for A/N/E or self-neglect (even if no injuries are currently present). The risk factors on the assessment indicate impending probability of abuse, neglect, exploitation or self-neglect. Under this classification, it will not be possible to pursue legal action or to obtain legal authority to take a customer into custody or provide other involuntary protective services without the customer's consent. It will not be possible to indicate an alleged perpetrator of any allegation with this classification.

- **Invalid:** Allegations upon which the investigation was based are determined to be "invalid," *i.e*., there are no substantiated allegations of A/N/E and the assessment does not indicate that there is any threat of harm or risk to the customer. Under this classification, no indication of a person as perpetrator can be made.

- **Incomplete**: It is not possible to complete or otherwise determine the investigation under this classification. There might be various reasons for classifying a case as incomplete. One (1) of the most common reasons would be that, after diligent efforts, the customer cannot be located.

Determination of Perpetrator (New AP Determinations for Paid Caregivers):

(**Paid Caregiver) Due Process – Pending** – This option is to be used ONLY to move a case from investigation into OGS. It requires approval from the Director and should only be used after the investigation has been completed.

- When any allegation was disposed as "Substantiated and/or Threat of harm" with the "Alleged Perpetrator Determination" as "Due Process Pending" then the Case should not be allowed to close, however worker can send the case to "Provide Ongoing Service".

- If the Case is in “Due Process Pending”, when the Investigation was Disposed as “Provide Ongoing Service” then the task to approve for “Provide Ongoing Service” should go to the Director.
- When the allegation(s) which was disposed as “Substantiated and/or Threat of harm” with the “Alleged Perpetrator Determination” as “Due Process Pending” was Overridden/Changed through Investigation Override link, that means the Overridden/Changed allegation has no longer “Alleged Perpetrator Determination” as “Due Process Pending” then the case should be allowed to close.
- Only the workers whose role is supervisor and above roles should be allowed to do Investigation Override.
- When the case is requested for Closure from “Provide Ongoing Service”.
    - If any allegation has “Alleged Perpetrator Determination” as “Due Process Pending” then a pop-up message should be shown to the worker as “Due Process Pending”. Case should not be allowed to close.
    - If none of the allegation has Alleged Perpetrator Determination as “Due Process Pending” then Case should be allowed to close.

- **Due Process – Unfounded** – The investigation was turned over to the Review Committee and it was determined that there was not enough evidence to support indicating the AP.
- **Due Process – Not Recommended** – To be used at the discretion of the Review Committee. An example of where this might apply is when a paid CG “borrows” $10 from the client but reimburses the client at later time and admits to doing so.
- **Due Process – Indicated (Other Agency)** – Due Process was afforded to the AP by another agency (like DIDD) and the AP was placed on the Abuse Registry.
- **Due Process – Indicated** – The Review Committee decides the evidence is sufficient to indicate the AP. A letter is sent to the AP and they did **NOT** appeal so they are placed on at the Abuse Registry.
- **Due Process-Indicated (Unable to Serve)-**The Review Committee decides the evidence is sufficient to indicate the AP. However, the AP is unable to be located to be served notice of their replacement on the abuse registry.
- **Due Process – Appealed (Overturned)** - The Review Committee decides the evidence is sufficient to indicate the AP. A letter is sent to the AP and they appealed. They won the appeal so they are **NOT** placed on at the Abuse Registry.
- **Due Process – Appealed (Upheld)** - The Review Committee decides the evidence is sufficient to indicate the AP. A letter is sent to the AP and they appealed. They lost the appeal so they are placed on at the Abuse Registry.
- **Due Process – Unable to Determine** – There is not enough evidence to support the allegations against the AP but we can determine the incident occurred. A situation where this would be used is if there are two AP’s and we know one of them committed the allegation but not which one specifically.

Chapter 13: Multi-Disciplinary Case Consultation

Legal Authority – 71-6-101(b)(2)

Purpose

The purpose of the APS Multidisciplinary Case Consultation Team (M-Team) is to provide suggestions, recommendations, and problem solving for those customers who have been determined to be in need of protection.

Multi-Disciplinary Case Consultation Team

A meeting of internal and external professionals to review a case to provide recommendations to assist the APS Social Counselor with reducing risk and/or locating resources to meet the customer's needs.

Composition of Team

Composition of each team will vary depending on the resources and needs within the region. Suggested team members may include:

- Medical/Mental Health Professional
- Social Worker (Hospital, Mental Health, etc.)
- Ombudsman (District level)
- Applicable State Agency Representatives
- Nursing Home Administrator/when applicable
- Law Enforcement
- Attorney
- Advocate/Conservator
- Circle of Support (COC)

Availability of Teams

- A sufficient number of teams are to be established in each district to ensure the availability of a team for staff in each county.
- A team is not required in every county.
- Teams should be available within a reasonable distance from each county.

Appointment of Team Members-

- All team members receive an appointment letter from the DHS Program Supervisor. (M-Team Appointment Letter)
- Appointments are for one year and begin with the date noted on the appointment letter.
- Reappointments may occur at the completion of the years' service.
- All M-Team members will be appointed by virtue of their credentials, profession and/or expertise, with support members engaged on a case by case basis, when they have critical information and are vesting in the well-being of a vulnerable adult.
- The abuse registry must be checked on each M-team member and if the individual is on the Abuse Registry they cannot serve on an M-team

- Each M-team member must be advised of all policies relevant to current employees such as Workplace Discrimination and Confidentiality Requirements
- Each member will complete the second page of the Volunteer Enrollment Form HS-3065.
- Submit the Registration of Volunteers section of the Volunteer Enrollment Form HS-3065 to DHS Human Resources.
- Each member will sign a Confidentiality Agreement HS-3133
- Each member will sign a Conflict of Interest Statement HS-3164

Confidentiality

- The name of the reporter will not be shared with the team.
- Should the M-Team have recommendations that involve another agency, APS may provide that recommendation to the other agency.

Team Meetings

- Shall be scheduled on an as needed basis as determined by the Program Supervisor.
- May be called as emergency meetings.
- May vary in length depending on the agenda.
- Are attended by team members and DHS staff (APS Social Counselor, APS Program Supervisor/Designee).
- May be attended by other professionals involved with the adult who have pertinent information to share. Such individuals should not be present during the discussion of the case.

Record Keeping

The APS Program Supervisor or designee for the team is responsible for maintaining a record of the ongoing activities of the team including:

- Copies of request for M-Team review HS-2753 APS M-Team Referral**.** (**Accessible through TNAPS; back-ups available on the forms page*)
- Copies of appointment letters for each team member;
- Copies of second page **of** HS-3065 - Volunteer Enrollment form for each team member;
- Information regarding orientation for team members;
- Records/minutes for each meeting, including: date, time, and place of each meeting; persons present and, if there are persons present who are not team members or DHS staff presenting a case, a statement of the reason for this person's attendance;
- Cases reviewed;
- Counselor/supervisors presenting cases;
- Team recommendations HS-2751 (**Accessible through TNAPS; back-ups available on the forms page*) and follow-up or feedback requested; and
- Copies of the completed M-Team referral form HS-2753, (**Accessible through TNAPS; back-ups available on the forms page*) completed recommendation or feedback form.
- Keep a team log which will be attached to the case in the case management system HS-3157(M Team Case Consultation Log) (**Accessible through TNAPS; back-ups available on the forms page*)

Chapter 14: Special Case Review

Legal Authority – T.C.A. §§ 71-6-101, et seq.

Purpose

Each unit will have access to a team which will conduct special reviews of specific APS cases. The teams will be convened on an as needed basis to be determined by the APS Program Supervisor.

Special Review Team Focus

A meeting of internal and external professionals to review a case to assess the following:

- Casework effectiveness
- Policy Compliance
- Recommendations for future agency practice or training
- Policy or legal recommendations
- Corrective action, if indicated

Circumstances that Require Convening a Special Review Team:

- A case that is the basis of a civil or criminal suit against DHS or DHS staff.
- An open case in which the customer is hospitalized at least three (3) times due to substantiated abuse or neglect during the life of the report.
- An open case in which a customer is hospitalized at least three (3) times due to substantiated self-neglecting behaviors during the life of the report.

Optional Circumstances for Convening of a Special Review Team:

- An open case in which a customer is hospitalized due to self-neglecting behaviors.
- A closed case in which there is an incident of physical injury/illness (requiring hospitalization) of a customer due to self-neglect, abuse or neglect and there was an open case sometime during the ninety (90) days prior to an incident, if the incident becomes known to the Department.
- A case that has received extensive media coverage.
- A complex case, at the request of APS management staff. (For example, repeated reports for repeated hospitalizations, regardless of whether the case was open or closed at the time of new reports.)

Special Case Review Team Composition

- The APS Program Supervisor, APS Field Supervisor and APS Social Counselor who were involved in the case, and
- An APS Field Supervisor and APS Social Counselor who were not involved in the case nor in the line of supervision, and
- A representative of the local APS Multi-Disciplinary Team.
- In some instances, where deemed appropriate, State Office staff may be included.

Special Case Review Process

Notification

- The APS Program Supervisor and the APS Director must be notified when an incident occurs that warrants a Special Case Review – whether mandatory or discretionary.
- The notification shall take place on the same day that the information is learned and may be conveyed by telephone, fax or email.
- Within a maximum of five (5) working days of becoming aware of an incident which may merit a Special Case Review, the APS Social Counselor will have their case current in the case management system and any additional information related to the case must be submitted to the APS Field Supervisor.

Review

- The APS Program Supervisor will review the file to determine the need to convene the Special Review Team.
- If appropriate, the team shall be convened within thirty (30) calendar days of the APS Program Supervisor's decision that the case needs to be reviewed.
- The APS Program Supervisor shall prepare a report of the team's findings as specified in the Special Review Summary Report. HS-3149 (**Accessible through TNAPS; back-ups available on the forms page*)
- All case files and other confidential material will be returned to the APS Field Supervisor at the conclusion of the review

Special Review Report

Within fifteen (15) working days of the review by the Special Review Team, the APS Program Supervisor will provide a report, using the *Special Case Review Summary Report* HS-3149 , of the team's findings to the APS Director, APS Field Supervisor and APS Social Counselor responsible for the case.

Chapter 15: On-Going Services

Legal Authority

71-6-101, 71-6-103 (g), 71-6-107

Purpose

On-Going Services will be offered and provided at the conclusion of the APS investigation after the completion of the Pre and Post Assessment when it is determined that the customer remains at risk of harm and would benefit from continued involvement by APS. Prior to providing on-going services, all allegations must be disposed of, all alleged perpetrators must be determined (unless a case of self-neglect), the investigation must be completed and approved by the Supervisor, and the investigation must be classified as valid or valid threat of harm. The case management system will generate an action plan based on those indicators determined to be at a level of crisis or vulnerable as derived from the Post Assessment.

- **Periodic Assessment**
  - Periodic Assessments will reflect the progress and/or changes in the case and whether or not the services being provided are effective in lowering the customer's safety risk and continue to be needed and will provide outcome measurement scores.
- **Action Plan**
  - An action plan is required on any APS case which remains open for ongoing services. The action plan documents the safety risks identified and the need for protective services after the investigation. The purpose of the action plan is to provide direction to APS efforts to alleviate or reduce identified problems or risks by specifying actions to be taken and resources to be utilized and a timeframe for completion. Community services staff may be requested to provide transportation of the customer to appointments for needed services (HS-3121). (**Accessible through TNAPS; back-ups available on the forms page*) APS will always seek the least restrictive means of lowering the safety risks of the customer.
- **Contact with the customer**
  - A minimum of one (1) face-to-face visit every thirty (30) calendar days is required as long as the case is open. Some customers may need more than one (1) contact a month, depending on their circumstances. All cases extended beyond thirty (30) days will require a supervisory review and justification every additional thirty (30) day period.

- **Additional Monthly Contacts**

    - It is important to gather information from others who are actively involved in the customer's life while ongoing services are provided. Contact with others involved in and providing services must be:

        - Made regularly, as appropriate
        - With any informal or formal service provider, to obtain information regarding the customer's progress.
        - And with anyone else who may have knowledge of the customer and the customer's circumstances.

    - If several services are obtained from one provider agency, contact need only be made with the supervisor of the various individuals actually providing the service. Information obtained from these contacts must be documented in the case management system.

Diligent Efforts to Engage

There may be times when APS is working with a customer to alleviate risks, and the customer becomes resistant and refuses all services. When this occurs, the APS Social Counselor should attempt to stay involved and engaged with the customer and make reasonable efforts to help the customer appreciate the need for and accept protective services. If the customer refuses services and does not appear to have the capacity to make such a decision, then legal intervention will be considered. Refer to Chapter 7, Investigation Policy.

Exception: Mental Health - Suicidal Customer

A customer who has a questionable mental health status and appears to understand that decisions that are made may result in premature death should be encouraged to obtain an evaluation by a mental health professional.

Possible Indicators of Lack of Capacity

Any sign that a customer has trouble recognizing problems, developing plans to address those problems or difficulty carrying out the identified plans should be taken as an indication of possible incapacity.

When a customer at crisis or vulnerable status level accepts services, appropriate actions to implement services should be taken in a timely manner and the supervisor should be consulted about possible legal intervention and one or more of the following exist:

- Services accepted and provided do not significantly improve the level of safety
- The customer appears to have diminished decision-making capacity; and
- The customer does not have a support system sufficient to keep the customer safe.

Chapter 16: Service Provision

Legal Authority

T.C.A. §§ 71-6-103, T.C.A. 71-6-107(b); 71-6-109; 111 and 112; 71-6-113

Purpose

If the Department determines that a customer is in need of protective services, the Department shall provide or arrange for the provision of the appropriate services except in cases in which the customer chooses to refuse such services. Services, both formal and informal, may be provided during the investigation, as well as throughout the life of a case kept open for on-going services. Legal action is only used in severe cases as a last resort.

Policy

APS provides services to those customers who accept services. If there are circumstances in which the customer refuses to accept needed services, other options, including legal intervention, must be explored. It is important to note that each service serves a different role and will be appropriate depending on the circumstances of the case. It is the APS Social Counselor's and Supervisor's decision to determine the services that will meet the needs of the customers (HS-2754 Service Plan)**.** (**Accessible through TNAPS; back-ups available on the forms page*) While it is expected that counselors utilize services that exist in the community, situations do arise that require emergency purchases such as a one (1) day supply of food. After supervisor consultation if the only way this immediate need can be met the counselor may choose to use their own personal funds to meet the need. See Chapter 1for reimbursement processes.

Service Options

When attempting to identify appropriate services for a customer, it is important to think about location, accessibility, availability, funding etc. The initial face-to-face contact with the customer must have occurred prior to deciding to provide services. Service options may include but are not limited to the following:

- Informal Services
- Action Plans
- Adult Day Care
- Counseling
- Interpreters/Translators for the Deaf/Hard of Hearing
- Necessary Adaptive/Assistive Technology
- Interpreters for Language Barriers
- Relatives and Friends
- Out of Home Placements
  - Emergency Room/Board/Supervision HS-3035, HS-2858, HS-2859 (**Accessible through TNAPS; back-ups available on the forms page*)
  - Hospitalization
  - Nursing Home Placements

Staff must not advise an APS customer or their family regarding the disposition of property in order to qualify for Medicaid or any other programs. The APS Social Counselor may refer customer or their family to the Medicaid Unit for hardship consideration.

- Relocation
  - This occurs in situations in which the customer needs to leave or be removed from an unsafe situation-either due to the physical home environment or an abusive arrangement. Without the customer's consent, a move can be made only by order of the court. A customer who is capable of understanding their situation may make the decision to continue living in a residence which APS believes to be unsafe. Relocation to Unlicensed Facilities is prohibited.
- Law Enforcement Officials
- Tennessee Bureau of Investigation (TBI)
- Tennessee Commission on Aging and Disability
- Information and Referral (I&R)
- Congregate Meals
- Long-Term Care Ombudsman
- National Family Caretaker Support Program (NFCSP-Title III-E)
- Public Guardianship Program for the Elderly HS-3150 (**Accessible through TNAPS; back-ups available on the forms page*)
  Types of guardianship include:
  - Conservatorship Program
  - Power of Attorney
- Pharmaceutical (RX) ASSIST
- State Health Insurance Assistance Program (SHIP)
- Home Delivered Meals
- Homemaker Services
- Medication Management
- CHOICES-Long Term In-Home Care
- Home and Community Based Services (HCBS)
  Types of services available include:
  - Personal care
  - Homemaker services
  - Home-delivered meals
  - Low Income Home Energy Assistance Program (LIHEAP)
  - Weatherization Assistance Program (WAP)

Tennessee Department of Human Services

There are services within DHS that may be accessed in order to assist the APS customer. More information about the following services is located in the Service Provision Practice guide. Types of services include:

- Homemaker Services HS-2972, HS-0041, HS-0878 (**Accessible through TNAPS; back-ups available on the forms page*)
- Council for the Deaf
- Disability Determination
- Vocational Rehabilitation Services
  - Rehabilitation Teaching Program
  - Services for the Blind and Visually Impaired

- Tennessee Technology Access Program (TTAP)

Tennessee Department of Health

- Patient Care Advocate
- Healthcare Facilities
- Vulnerable Person's Registry
- Health-Related Boards

Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) and the Tennessee Department of Intellectual And Developmental Disabilities (DIDD)

Some of the services include:

- Crisis services
- Mental health counseling
- Housing services
- Supportive Living Housing Program
- Assisted Living Permanent Supportive Housing Program
- Independent Living Assistance
- Coordination of housing
- Speakers Bureau
- Criminal Justice Liaison
- Case Management
- TDMHSAS Ombudsman
- Office of Consumer Affairs—helps to resolve issues
- Assistance with obtaining medication
- Peer Support Centers (formerly called Drop-In Centers)
- Support/Education/Transportation/Homelessness (SETH)
- Projects for Assistance in Transition from Homelessness (PATH)
- Tennessee Mental Health Safety Net
- Mental Health Crisis Team

Tennessee Department of Intellectual and Developmental Disabilities

Programs include:

- Consumer-directed supports
- Case management Home and Community Based Waiver Programs (requires an approved DIDD PAE/PASSAR which is a different PAE than the nursing home and the HCBS PAE)
    - Statewide
    - Self-Determination
- Family support

The services listed above are funded programs that are statewide. There may be other resources available to APS customers in the local community.

Chapter 17: Providing Services for DHS Custody Customers

Legal Authority:

71-6-107, Provision of protective services without the consent of the adult.

T.C.A 71-6-107(b)(1), Non-emergency consent to protective services

Purpose: To prepare APS Social Counselors for assessing and determining proper and appropriate entry of custody customers as well as service e provision to those in state custody.

Placement for DHS Custody Customers:

Refer to APS Policy Manual, Chapter 16; Service Provision Policy and Chapter 21; Legal Intervention, regarding nursing home placements. Refer to the Public Guardianship Program as a possible resource for taking over custody of a customer.

Before seeking legal custody of a vulnerable adult, APS staff must have confirmation of an approved funded placement. Placement may be funded by Tenncare through an approved PAE for CHOICES or DIDD services. APS staff must submit application for Medicaid (financial) to Tenncare prior to obtaining custody when there is an approved PAE. Placement can also be funded with the client's finances if available. A temporary guardian will be needed to manage the client's finances if the placement is to be funded with client's resources. APS staff may sign placement admission forms as legal custodian for purposes of making medical decisions. APS cannot sign any form which would make the Department financially responsible for customer's care.

Placement is not limited to a nursing home. Placement should be supported or assisted and there must be a funding source. The placement must meet daily needs, safety needs and medical needs of the customer. Placement in an unlicensed agency is prohibited without DHS supervisory and legal approval. If unlicensed placement is being considered, consult with the APS Field Supervisor. TDHS legal must be consulted and must approve the unlicensed placement prior to use.

Preparing for Placement

Refer to APS Policy Manual, Chapter 7: Investigations in APS

The following areas must be addressed prior to placing a customer in APS custody:

- Customer Belongings
- Contact with Custody Customer Relatives and Friends
- Custody Customer End of Life decision Making (HS-3120) (**Accessible through TNAPS; back-ups available on the forms page*)

The following areas must be continually addressed after placing a customer in APS custody:

- Maintaining continuity of care
- Monthly face to face contact with the customer (HS-3125) (**Accessible through TNAPS; back-ups available on the forms page*)
- Patient Chart

- On-going Services
- Six (6) Month Customer Assessment
- Visits with family or friends
- Working with placement staff
- Medical Decision making and DNR for customers in DHS Custody HS-3119 (**Accessible through TNAPS; back-ups available on the forms page*)
    - Medical Procedures
    - DNR Requests

Death of Custody Customer

DHS legal Authority ends on the date the customer expires.

Chapter 18: Fatality Review

Legal Authority –T.C.A. § 71-6-103

Purpose

To establish a process of conducting a comprehensive, systematic review of deaths of vulnerable adults that are due to abuse, neglect, and/or exploitation, to identify factors that may have contributed to the death, and to use the findings to prevent such deaths and improve the health and safety of vulnerable adults.

Functions of the Fatality Review Team Include

- To review the APS Investigation
- To review the circumstances of the incident
- To offer advice
- To offer findings and provide feedback of the review
- To make recommendations for policy and regulatory changes

Policy

If a review of a case involving a suspicious death of a vulnerable adult that may have been the result of abuse or neglect results in a finding that corrective action is warranted, the case will be referred to the fatality review team. The APS Director is required to review all cases on deceased customers to determine if a fatality review is needed.

Case Circumstances of an Adult Fatality which Require APS Director Review

- An open case in which there is a customer fatality that is alleged to be the result of abuse, neglect, exploitation or self-neglect.
- An open case that contains an order to consent to services to prevent irreparable mental or physical harm or death and there is a customer fatality. These may be custodial cases or non-custodial protective services orders.
- A closed case in which, there is a customer fatality that is related to abuse, neglect, or self-neglect, the case was in an open status sometime during the ninety (90) calendar days prior to the death, and the death becomes known to the Department.

Criteria for Fatality Review by APS Director/State Office Designee

- The death of any person age eighteen (18) or older
- Who was the subject of an active APS investigation and
- Whose death was due to abuse, neglect, or self-neglect or acts suggesting abuse, neglect or self-neglect or
- Whose death was unexplained, or sudden pursuant to the APS Director or State Office Designee's determination

Fatality Review Team Composition

The fatality review team shall consist of:

- Assistant Commissioner of Community and social Services, a designee will be assigned in extenuating circumstances
- APS Director
- DHS Office of General Counsel
- Scribe
- Outside Agency Staff to include as many members from different fields/disciplines as necessary. Representatives from the following are required:

  - Law Enforcement Representative – Local or State
  - District Attorney/Assistant District Attorney
  - Physician or Licensed Professional Designee
  - Tennessee Commission on Aging and Disability (Representative from the public guardianship for long term care division)
  - Ombudsman

Some team members specialize in certain areas and will be asked to participate on specific cases and will be engaged on a case by case basis:

- Medical Examiner
- District Attorney
- Applicable State Agency (i.e. DIDD, DOH, DMHSAS etc.)
- Nursing Home/Assisted Living Facility Representative, as appropriate

All Team Members are appointed by the Assistant Commissioner of Community and social Services in consultation with the Commissioner's Office or assigned designee in extenuating circumstances. Members are engaged for specific cases.

All team members will sign the Conflict of Interest Statement HS-3164

Availability of the Team

- One (1) statewide team will be established and used for all cases
- APS State Office will be responsible for recruiting and establishing review teams. (Fatality Review Team Appointment Letter) (**Accessible through TNAPS; back-ups available on the forms page*)

Team Meetings:

- The name of the Reporter is not shared with the Fatality Review team.
- Are scheduled by the APS Director or assigned designee in extenuating circumstances after consultation with the Assistant Commissioner of Community and Social Services (Fatality Review Team Meeting Notification) (**Accessible through TNAPS; back-ups available on the forms page*)
- May be called as an emergency meeting
- May vary in length depending on number of incidents to review
- Are attended by at least seven (7) team members

- Participation by team members may be either in person or by electronic means (conference call, web-based).
- Minutes of each review will be taken by the APS State Office Administrative Assistant/Designee. HS-3124 (**Accessible through TNAPS; back-ups available on the forms page*)
- Minutes of each review will be submitted to the APS Director or Designee who will submit to the Assistant Commissioner of Community and social Services and Office of General Counsel for review and approval and after approved, the minutes will be entered into the electronic case management system within five (5) business days of the review.

Within fifteen (15) working days of the review by the Fatality Review Team, the APS Director/ State Office Designee will provide a report, using the Fatality Review Summary Report (HS-3123) (**Accessible through TNAPS; back-ups available on the forms page*) in the automated system, of the team's findings and recommendations to the Assistant Commissioner of Community and social Services and the DHS Commissioner/Designee.

Fatality Review Outcome Discussion

The APS Director will discuss the findings and recommendations of the fatality review with the APS Program Supervisor, APS Field Supervisor and APS Social Counselor within forty-eight (48) hours after the review. The APS Program Supervisor will be responsible for ensuring the APS Field Supervisor and APS Social Counselor submits a plan of action, if needed, to the APS Director within ten (10) days of the outcome discussion.

The APS Director/Designee will be responsible for ensuring that the recommendations in the report are followed, as appropriate. The APS Director will submit a fatality review status report (HS-3126) (**Accessible through TNAPS; back-ups available on the forms page*) on all action items to the Assistant Commissioner of Community and Social Services and Office of General Counsel (OGC) on a monthly basis.

The Assistant Commissioner of Community and Social Services will submit a fatality review summary report (HS-3123) (**Accessible through TNAPS; back-ups available on the forms page*) following each fatality review and discuss with the Commissioner's Office and Office of General Counsel on a monthly basis or as needed.

Chapter 19: Due Process for Release of Identification of Indicated Perpetrators of Abuse, Neglect or Exploitation

Legal Authority

T.C.A 71-6-103

Purpose

The disclosure of information from the Department's records to an employer or licensing authority of a "paid caregiver", or to the Vulnerable Persons Registry administered by the Department of Health, that a person has been indicated as a perpetrator of abuse, neglect or exploitation of an adult shall be for the purpose of preventing further abuse, neglect or exploitation of vulnerable persons.

Policy

Except as otherwise permitted, by Rule 1240-07-03-.03, which allows release of information regarding the investigation involving an alleged perpetrator of Abuse, Neglect, and/or Exploitation to certain entities or persons, if the Department determines that there is a preponderance of the evidence sufficient to indicate a paid caregiver as an alleged perpetrator of Abuse, Neglect, and/or Exploitation, the Department must first provide due process to the alleged perpetrator before releasing that determination to the employer or licensing authority of the person and before placement of the person's name on the Vulnerable Persons Registry. HS-3122 APS Due Process legal referral (**Accessible through TNAPS; back-ups available on the forms page*)

Chapter 20: Case Closure

Legal Authority

T.C.A. § 71-6-103

Purpose

Provide a uniform process for closure of cases that end after investigation, after providing on-going services, or are closed without investigation. This policy pertains to investigative case closure and on-going services case closure only.

Policy

APS (Adult Protective Service) shall formally close all investigative cases within sixty (60) calendar days of the assignment of the report except for those cases that remain open for on-going services. A case is considered closed after the supervisor has approved the closure.

Investigative Case Closure

To properly close an APS investigation, all investigative tasks, APS assessments and notifications must be completed within sixty (60) calendar days from the date the report is assigned. Supervisory approval must occur within the sixty (60) calendar days for the case to be completed timely. All cases must be reviewed by the Supervisor. HS-2750 Case Closure Summary (**Accessible through TNAPS; back-ups available on the forms page*)

Cases Closed Without Investigation

There may be times when it is necessary to close a case without an investigation. All incomplete case closures must be reviewed and approved by the Supervisor.

On-going Services Case Closure
After an investigation has been completed the APS Social Counselor may leave a case open to implement and monitor service provision. Once those services are in place the case will need to be closed. All on-going services case closures must be reviewed and approved by the supervisor.

Chapter 21: Legal Intervention

Legal Authority

T.C.A. § 71-6-101 et seq., T.C.A. § 33-6-103, T.C.A. § 33-6-104

Purpose

There are several options under the Tennessee Adult Protection Act (the Act), Tenn. Code. Ann. §§ 71-6-101 et seq. which allow the Department to pursue court intervention in order to complete an investigation of an APS report and in order to provide protection to customers who are determined to be in need of protective services. HS-2493 Physician's Statement of need for court ordered protective services. (**Accessible through TNAPS; back-ups available on the forms page*) The options should be carefully considered before withdrawing from an investigation or terminating services in any case situation in which a customer is thought to be in need of protection but does not consent to or withdraws consent for service.

Policy

The decision to take legal action is made as a last resort after all considerations have been taken into account and all practical alternatives to legal action have been exhausted. Any time there is reason to question whether or not a customer is in imminent danger, a special case review of the customer's capacity to make decisions must be held. The specific authority requested and granted will be based on the needs of the customer and on the level of danger. Immediate threat of danger allows for the most intrusive legal action. In the absence of immediate danger, less intrusive court intervention must be considered.

APS staff should in no instance attempt to give legal advice to persons who contact us. Nor should they refer anyone to a particular private attorney outside TDHS Office of General Counsel. The only advice staff can give with regard to legal representation is to simply recommend that the person seek the advice of legal counsel. Any APS Social Counselor who believes legal intervention might be necessary must consult with their supervisor and the TDHS Office of General Counsel.

APS Legal References

Ch Ref	Name	Rule	TCA
1.1	**General Information**		T.C.A. 71-6-101 et.seq.
1.2	**Confidentiality**		71-6-118
1.3	**Intake**		71-6-101 et seq. 71-6-103(k) 71-6-103(b)(1)
1.4	**Screening and Assignment**		71-6-103
1.5	**Notifications**		71-6-103(d)(1) 71-6-103(d)(2)
1.6	**Health and Safety**		71-6-101 et seq.
1.7	**Investigation**		71-6-101 et seq. 39-16-402
1.8	**Aps Assessment**		71-6-103
1.9	**Documentation of APS Cases**		71-6-103
1.10	**Courtesy Interviews/Transfer of Cases**		71-6-101 et.seq.
1.11	**Interstate**		71-6-101, et seq.
1.12	**Investigation Classification**		T.C.A §§ 71-6-103
1.13	**Multi-Disciplinary Case Consultation**		71-6-101 (b)(2)
1.14	**Special Case Review**		71-6-101, et seq.
1.15	**On-Going Services**		71-6-107 71-6-103 (g)
1.16	**Service Provisions**		71-6-103

			71-6-107(b) 71-6-109 111 and 112;71-6-113
1.17	**Providing Services for DHS Custody Customers**		71-6-107 71-6-107(b)(1)
1.18	**Fatality Review**		71-6-103
1.19	**Due Process for Release of Identification of Indicated Perpetrators of Abuse, Neglect, or Exploitation**	**1240-07-03-.03**	T.C.A 76-103
1.20	**Case Closure**		71-6-103
1.21	**Legal Intervention**		71-6-101 33-6-103, 33-6-104

APS Glossary and Acronyms List

	Glossary
Term	**Definition**
Caregiver	a person or institution that has assumed the duty to provide for the care of the adult "by contract or agreement, or service exchange (i.e. someone who provides cleaning, cooks, or shopping etc. in exchange for room and board. A caregiver may be paid or unpaid. A caregiver who is a family member must meet all of the following; ▪ Reside in the same building with or regularly visits the adult; and ▪ Know or reasonably should know of the adult's mental or physical dysfunction or advanced age; and ▪ Know or reasonably should know that the adult is unable to adequately provide for the adult's own care.
Abuse or Neglect	means the infliction of physical pain, injury, or mental anguish, or the deprivation of services by a caregiver that are necessary to maintain the health and welfare of an adult or a situation in which an adult is unable to provide or obtain the services that are necessary to maintain that person's health or welfare.
Severe Abuse	Any abuse which requires immediate medical attention to treat conditions that could result in irreparable physical harm or any sexual abuse. This could also include neglect that is so severe that immediate medical attention is required or neglect that could result in irreparable physical harm.
Emotional Abuse	Abuse (emotional) generally involves emotional harm to the adult, including the infliction of mental anguish, unreasonable confinement, or other cruel treatment by a caregiver
Physical Abuse	Abuse (physical) generally involves more extreme forms of harm to the adult, including the infliction of pain, injury, unreasonable confinement, or other cruel treatment such as hitting, burning, kicking and pinching by the caregiver
Sexual abuse	Abuse (sexual) occurs when a vulnerable adult is forced or tricked into engaging in sexual activity or is exposed to sexual activity by anyone. It does not have to be a caregiver.
Neglect	Neglect occurs when the basic needs of a dependent adult are not met by a caregiver. Neglect may be unintentional, resulting from the caregiver's lack of ability to provide or arrange for the care or services the adult. Neglect also may be due to the intentional failure of the caregiver to meet the adult's needs.
Self-neglect	Self-Neglect occurs when a dependent adult is unable to care for him/herself or to obtain needed care. The impairments result in significant danger to the adult and in some situations deterioration can occur to the point that the adult's life may be at risk.
Financial Exploitation	Financial Exploitation occurs when a caregiver improperly uses funds intended for the care or use of the adult. These are funds paid to the adult or to the caregiver by a governmental agency.

	Acronyms
APS	Adult Protective Services
DIDD	Department of Intellectual and Developmental Disabilities
DMHSAS	Department of Mental Health and Substance Abuse Services
HCF	Health Care Facilities
OIG	Office of Inspector General
POA	Power of Attorney
TBI	Tennessee Bureau of Investigations
TDHS	Tennessee Department of Human Services
TDOH	Tennessee Department of Health

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HS-3120	* Custody Client End of Life Decisions		17
HS-3122	* Due Process Referral		19
HS-2972	* Homemaker Services Request		16
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HS-0041	*Authorization for Services		16
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Letter	DIDD Investigation Results Request		