

2017



KANSAS ATTORNEY GENERAL

Derek Schmidt

**Abuse, Neglect & Exploitation Unit
Kansas Fiscal Year 2017
Annual Report**

July 1, 2016 – June 30, 2017

www.ag.ks.gov

Kansas Attorney General Derek Schmidt

December 29, 2017

Dear Fellow Kansans:

It is my pleasure to present the Fiscal Year 2017 annual report of the Abuse, Neglect and Exploitation (ANE) Unit at the Office of the Attorney General as required by K.S.A. 75-723(g).

The State of Kansas, and particularly the Office of the Attorney General, is in the process of reorganizing and strengthening its response to the abuse, neglect and exploitation of vulnerable adults. Recent legislative changes in 2016 and again in 2017 have strengthened the authority of the ANE unit particularly in criminal cases, focused the ANE unit on adult cases, and provided the opportunity for more resources to support the ANE unit's work. To implement those changes, we have reorganized the structure of the Office of the Attorney General.

This year's annual report captures a period of transition in that reform process. The 2017 fiscal year, which began July 1, 2016, and concluded June 30, 2017, covers a period between the first and second of those two legislative changes. Consequently, the format and presentation in this year's report differ from reports in the past and are likely to differ from future reports, which will cover periods in time when the statutory changes have been fully implemented.

Even at this preliminary stage, however, we can report that the changes are strengthening the response to criminal abuse, neglect and exploitation of vulnerable adults. Our ANE unit is working to prevent cases from falling through jurisdictional cracks as they are handled by various state and local agencies throughout Kansas, is developing and presenting training to build capacity to combat adult abuse throughout our state, and is investigating and prosecuting individual cases as appropriate. And the newly created Fraud and Abuse Litigation Division at the Office of the Attorney General, in which the ANE unit now is housed, provides a framework for more robust efforts to counter adult abuse throughout our state.

We look forward to continuing to build on these reforms in the years ahead, and we appreciate this opportunity to report initial progress.

Best wishes,



Derek Schmidt
Kansas Attorney General



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Executive Summary

The Abuse, Neglect, and Exploitation (ANE) unit was established by statutory mandate in the summer of 2006, largely in response to the Kaufman House case, which occurred in Newton, Kansas. Arlan and Linda Kaufman operated a mental health group home for adults, in which complaints of abuse had been made by residents over a period of years. Due to inadequacies in the State's system of reporting and investigation, the complaints went uninvestigated. The Disability Rights Center of Kansas eventually gained access to the home which then allowed for subsequent law enforcement investigation that led to arrest, prosecution, and conviction of the Kaufmans in U.S. District Court. During the criminal investigation and subsequent review, it became clear there had been systemic failures that led to the abuse going undetected. As a result, the legislature in 2006 created the Abuse, Neglect, and Exploitation Unit pursuant to K.S.A. 75-723.

On July 1, 2016, the legislature amended 75-723 to allow the attorney general's office to assist in the investigation, prosecution, and prevention of cases involving abuse, neglect, and exploitation. This means the ANE unit is no longer merely a monitoring or auditing unit. The statutory amendments also focused the unit on cases of *adult* abuse. This change of focus to investigation and prosecution meant it was no longer appropriate for the ANE unit to be located in the Victim Services Division. As part of the attorney general's focus on fraud and abuse cases, in July 2016, the ANE unit was moved to the newly created Fraud and Abuse Litigation Division (FALD).

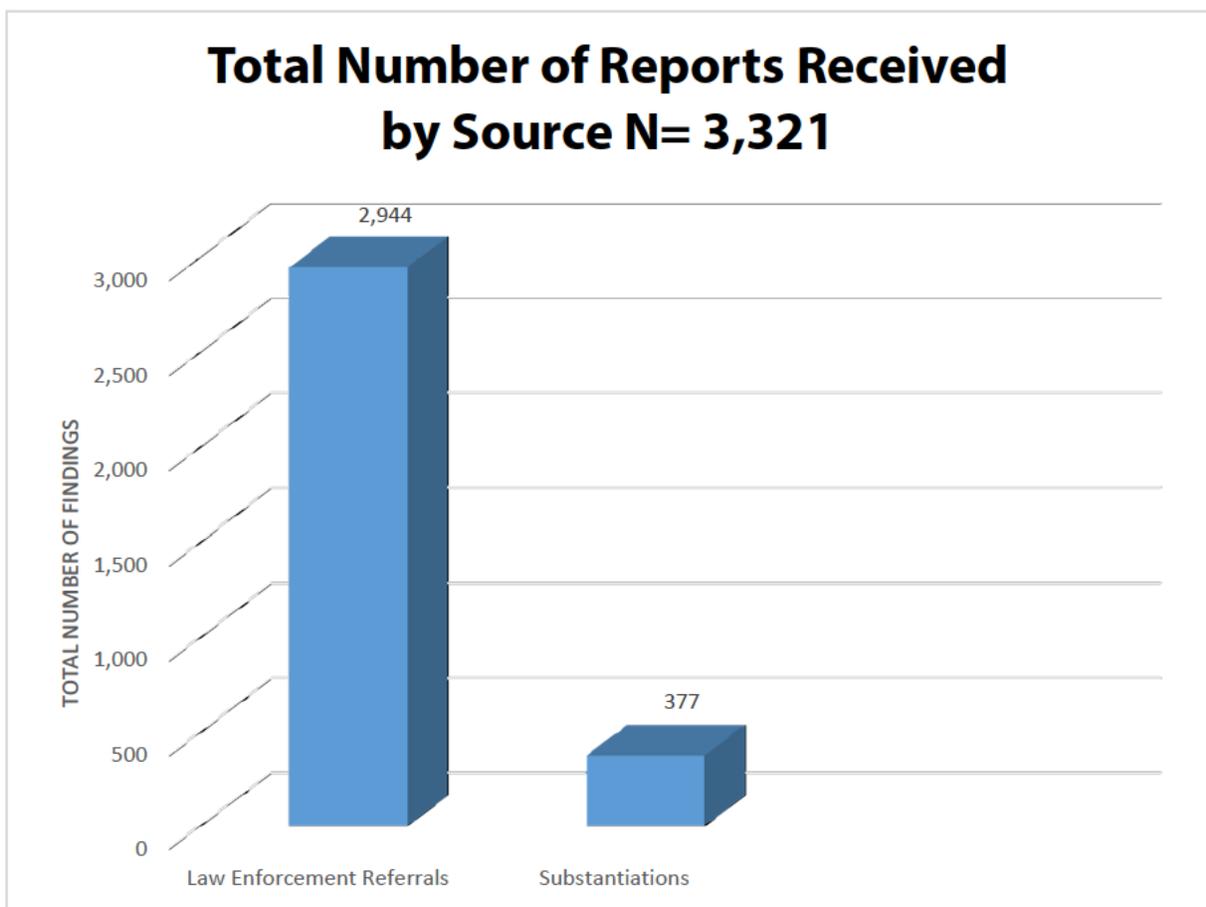
As part of the restructuring of the ANE unit, state agencies involved in investigating allegations of abuse, neglect or exploitation of adults, who are required to notify law enforcement of a possible crime, are now also required to forward such notifications to the unit. The ANE unit also continues to receive all substantiated findings of abuse, neglect, and exploitation of adults. These findings come to the ANE unit from the Adult Protective Services (APS) section of the Kansas Department of Children and Family (DCF), the Kansas Department of Aging and Disability Services (KDADS), and the Kansas Department of Health and Environment (KDHE).

In addition to sharing statistical data for the reports received, this year's annual report provides a broad overview of the unit's activities. It provides the statutes that impact the daily activity of the agencies we interact with as well as our unit. The report focuses on the ways the unit's work has resulted in intervention or investigation of the abuse, neglect, and exploitation of vulnerable adults. It also looks at the ways the unit has provided education and outreach to improve the protection of vulnerable adults within the state. Finally, the report looks at goals the unit hopes to accomplish as we move forward into a new fiscal year.

FY 2017 Overview

The ANE unit is required to review all cases forwarded by a state agency involving a confirmed (substantiated) finding of abuse, neglect or exploitation. State agencies required to forward reports to the unit are DCF, KDADS and KDHE. The ANE unit is also required to review all law enforcement referrals regarding allegations of abuse, neglect and or exploitation. During this reporting period, July 1, 2016, through June 30, 2017, the ANE unit received 3,321 reports of abuse, neglect or exploitation. Of those 3,321 reports, 377 were substantiated findings, and 2,944 were law enforcement referrals. The unit assisted in seven criminal investigations and three prosecutions along with presenting 11 educational trainings during the 2017 fiscal year.

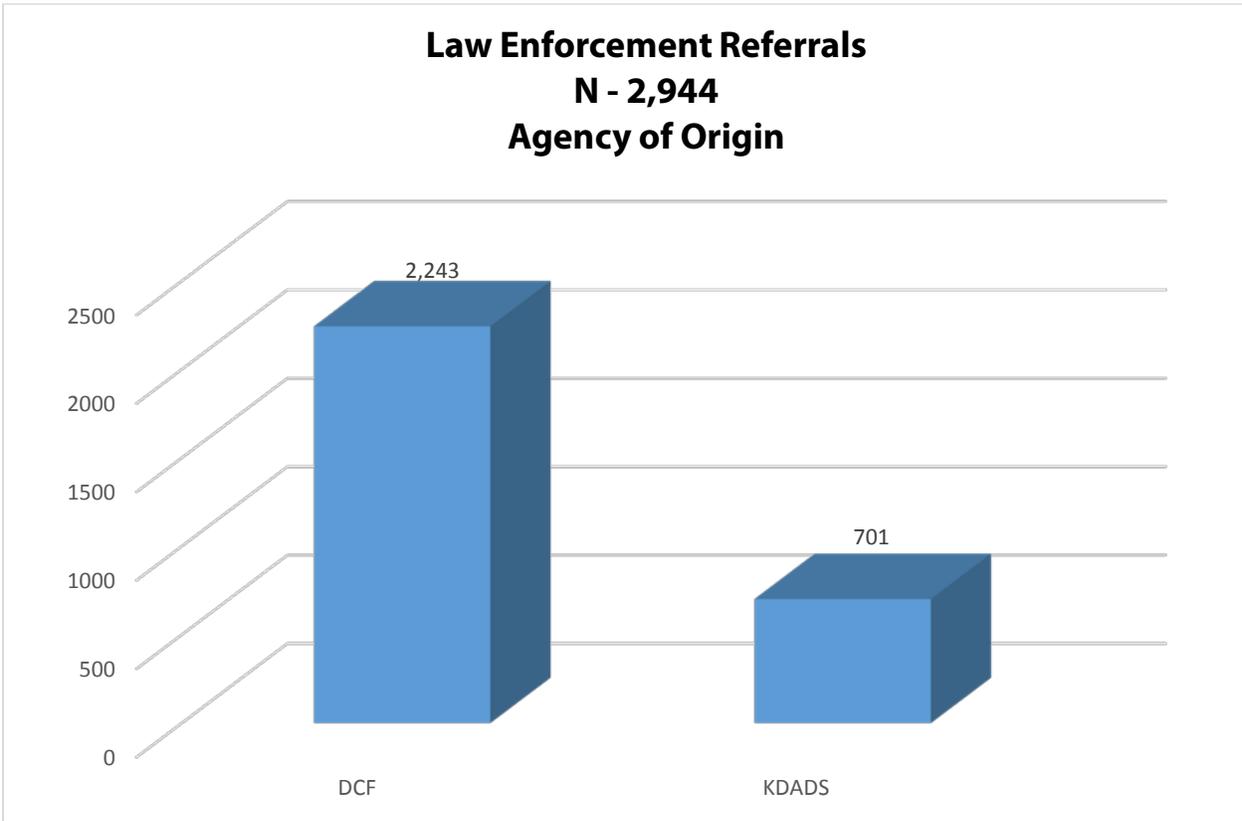
Of the 3,321 reports of abuse, neglect or exploitation from the above agencies a majority, 89 percent, of them were initial referrals to law enforcement agencies and the remaining 11 percent were substantiated findings of abuse, neglect or exploitation.



Law Enforcement Referrals

APS, KDADS and KDHE are mandated by law to report possible criminal acts to law enforcement (K.S.A. 39-1433 and K.S.A. 39-1404). In accordance, these state agencies are to complete a written notification to law enforcement (Initial Referrals). These referrals can take place at any point during a state agency’s investigation but are most frequently made at the onset of an investigation. This form may include a lengthy summary, with supporting documentation attached, or may contain only a few sentences with instructions for law enforcement to contact the worker to receive additional information.

The unit continues to work with local law enforcement agencies across the state in how this referral process works. Obtaining police report numbers and names of the detective/investigator assigned has become much easier through continued collaboration and education with local authorities. In addition, the unit worked closely with both KDADS and DCF to create a criminal notification cover page. This cover page is attached to each referral as a way for each law enforcement agency to respond to the ANE unit and the social worker. Creating this cover page has aided in the unit’s ability to close referrals in a timely manner knowing law enforcement has received the referral and followed up accordingly.



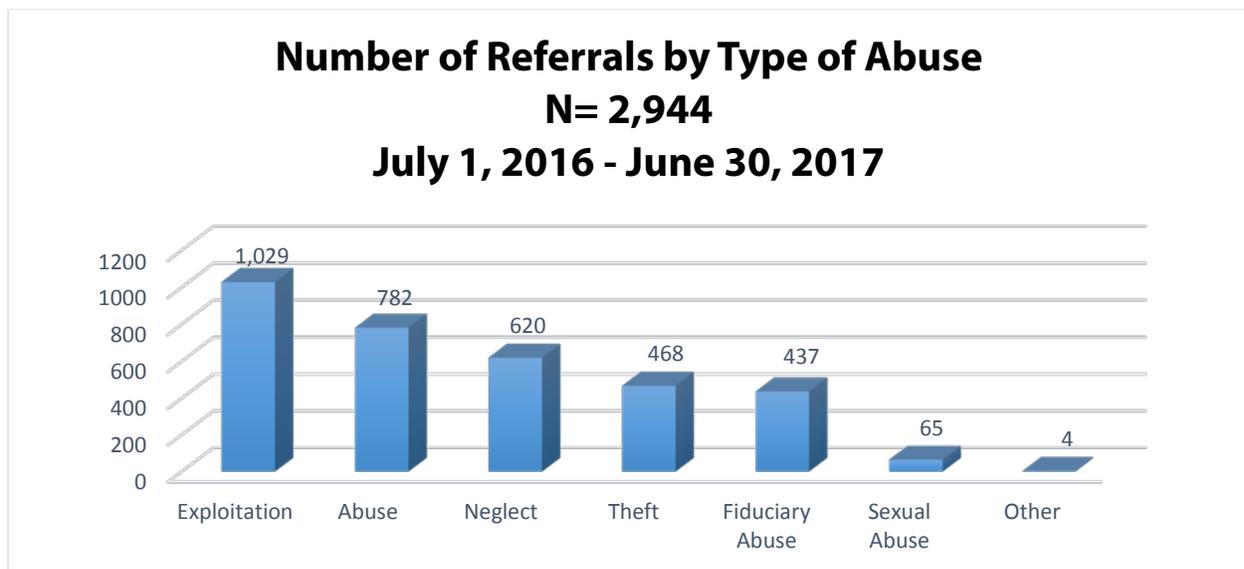
DCF Adult Protective Services (APS) – Social workers investigate reports and provide protective services to adults, with their consent, who reside in the community, adults residing in facilities licensed/certified by DCF, and to adults residing in adult care homes and other facilities licensed by KDADS when the alleged perpetrator is not a resident or employee of the facility. APS also investigates caregivers providing services to home and community based service (HCBS) clients. www.dcf.ks.gov

Kansas Department of Aging and Disability Services (KDADS) – Surveyors investigate reports of adult abuse, neglect and exploitation occurring in adult care homes (ACH). Examples: nursing home facilities, assisted living facilities, boarding care. www.kdads.ks.gov

Kansas Department of Health and Environment (KDHE) – Investigates reports of adult abuse, neglect and exploitation occurring in medical facilities and non-long term care facilities. Examples: hospitals, ambulatory surgery centers, home health agencies, hospice, rural health clinics, outpatient physical therapy, portable x-ray units. www.kdheks.gov

During this reporting period the unit received law enforcement referrals for 2,944 victims. Exploitation, abuse, neglect, theft, fiduciary abuse, sexual abuse and “other” are the allegations used by respective state agencies listed on those referrals. Some referrals allege more than one type of abuse, which the unit counts as one referral, but reports the total number of allegations.

Exploitation was the most reported allegation in all of the referrals received by the unit at 1,029. There were 782 referrals received for abuse, 620 for neglect, 468 for theft, 437 for fiduciary abuse, 65 for sexual abuse and 4 referrals classified as “other.” The “Other” field was created as the allegations could not be categorized due to lack of detail in the complaints. The only allegations investigated by DCF that do not require notification to the unit are those for self-neglect. These investigations usually do not contain a criminal element therefore not requiring notification to law enforcement. A majority of the exploitation referrals the unit received were related to financial exploitation. The law enforcement referral information in this report came from DCF and KDADS.



FY 2017 Referral Breakdown by County

The below chart is a county breakdown showing law enforcement referrals received respectfully from each county. The population shown is individuals age 18 and over in each county.

County	Population 18+	KDADS	DCF	Total	Rate per 1,000
Allen County	9,797	1	7	8	0.82
Anderson County	5,895	2	2	4	0.68
Atchison County	12,575	1	12	13	1.03
Barber County	3,638		1	1	0.27
Barton County	20,303	5	48	53	2.61
Bourbon County	10,924	3	12	15	1.37
Brown County	7,267	2	4	6	0.83
Butler County	49,797	26	26	52	1.04
Chase County	2,102	3	2	5	2.38
Chautauqua County	2,674	0	10	10	3.74
Cherokee County	15,485	0	10	10	0.65
Cheyenne County	2,102	0	5	5	2.38
Clark County	1,562	1	4	5	3.20
Clay County	6,217	1	14	15	2.41
Cloud County	7,115	0	15	15	2.11
Coffey County	6,551	0	5	5	0.76
Comanche County	1,404	0	3	3	2.14
Cowley County	27,137	6	38	44	1.62
Crawford County	30,504	9	38	47	1.54
Decatur County	2,268	0	4	4	1.76
Dickinson County	14,471	1	40	41	2.83
Doniphan County	6,087	3	3	6	0.99
Douglas County	96,957	10	64	74	0.76
Edwards County	2,248	1	6	7	3.11
Elk County	2,041	0	1	1	0.49
Ellis County	22,661	5	42	47	2.07
Ellsworth County	5,201	1	19	20	3.85
Finney County	25,387	5	54	59	2.32
Ford County	23,621	30	29	59	2.50
Franklin County	19,271	1	15	16	0.83
Geary County	24,718	1	50	51	2.06
Gove County	1,960	0	3	3	1.53
Graham County	2,026	1	14	15	7.40
Grant County	5,219	1	3	4	0.77
Gray County	4,268	0	2	2	0.47
Greeley County	968	0	1	1	1.03
Greenwood County	4,877	1	7	8	1.64

County	Population 18+	KDADS	DCF	Total	Rate per 1,000
Hamilton County	1,777	0	1	1	0.56
Harper County	4,287	3	4	7	1.63
Harvey County	26,266	7	61	68	2.59
Haskell County	2,862	0	6	6	2.10
Hodgeman County	1,447	1	3	4	2.76
Jackson County	9,963	0	7	7	0.70
Jefferson County	14,530	4	5	9	0.62
Jewell County	2,350	0	5	5	2.13
Johnson County	439,345	153	222	375	0.85
Kearny County	2,797	0	2	2	0.72
Kingman County	5,829	3	7	10	1.72
Kiowa County	1,941	1	5	6	3.09
Labette County	15,659	5	30	35	2.24
Lane County	1,266	0	0	0	0.00
Leavenworth County	61,076	13	55	68	1.11
Lincoln County	2,333	1	1	2	0.86
Linn County	7,314	0	11	11	1.50
Logan County	2,184	0	1	1	0.46
Lyon County	26,019	4	73	77	2.96
Marion County	9,499	3	25	28	2.95
Marshall County	7,528	0	5	5	0.66
Mcperson County	22,190	19	56	75	3.38
Meade County	3,122	0	3	3	0.96
Miami County	24,622	14	13	27	1.10
Mitchell County	4,822	2	9	11	2.28
Montgomery County	24,978	10	21	31	1.24
Morris County	4,438	0	7	7	1.58
Morton County	2,125	4	5	9	4.24
Nemaha County	7,567	1	3	4	0.53
Neosho County	12,133	7	9	16	1.32
Ness County	2,321	2	3	5	2.15
Norton County	4,450	1	8	9	2.02
Osage County	12,126	3	5	8	0.66
Osborne County	2,886	0	9	9	3.12
Ottawa County	4,541	1	10	11	2.42
Pawnee County	5,547	0	17	17	3.06
Phillips County	4,155	0	13	13	3.13
Pottawatomie County	16,796	1	10	11	0.65
Pratt County	7,239	2	9	11	1.52
Rawlins County	2,014	0	2	2	0.99

County	Population 18+	KDADS	DCF	Total	Rate per 1,000
Reno County	48,696	25	133	158	3.24
Republic County	3,750	5	6	11	2.93
Rice County	7,527	0	24	24	3.19
Riley County	60,816	4	72	76	1.25
Rooks County	3,919	1	6	7	1.79
Rush County	2,463	1	8	9	3.65
Russell County	5,454	1	7	8	1.47
Saline County	41,977	20	106	126	3.00
Scott County	3,710	0	1	1	0.27
Sedgwick County	378,318	123	209	332	0.88
Seward County	15,528	7	26	33	2.13
Shawnee County	135,317	55	81	136	1.01
Sheridan County	1,929	1	0	1	0.52
Sherman County	4,551	6	8	14	3.08
Smith County	2,931	0	3	3	1.02
Stafford County	3,192	1	8	9	2.82
Stanton County	1,495	0	2	2	1.34
Stevens County	3,928	1	3	4	1.02
Sumner County	17,604	8	14	22	1.25
Thomas County	6,065	1	6	7	1.15
Trego County	2,335	4	7	11	4.71
Wabaunsee County	5,224	4	2	6	1.15
Wallace County	1,127	0	0	0	0.00
Washington County	4,293	1	14	15	3.49
Wichita County	1,537	2	3	5	3.25
Wilson County	6,677	2	6	8	1.20
Woodson County	2,489	0	3	3	1.21
Wyandotte County	117,844	42	131	173	1.47
TOTALS	2,192,338	701	2243	2944	1.34

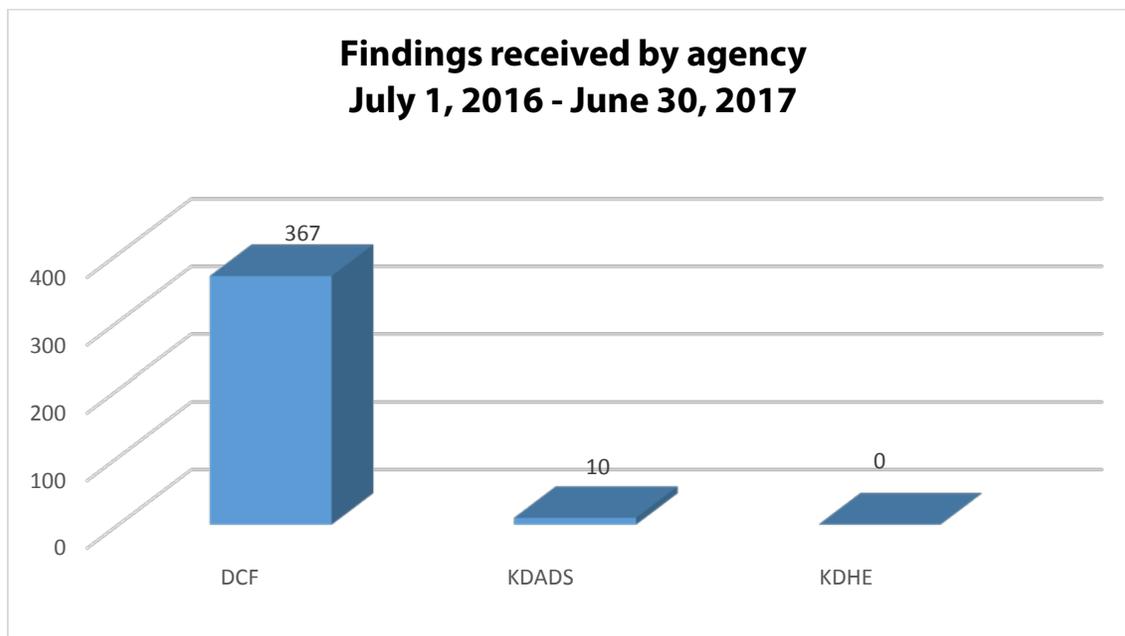
Substantiations

During the reporting period the ANE unit received a total of 377 substantiations from DCF and KDADS. KDHE is statutorily required to send findings to the unit as well; however, during this reporting period the unit did not receive any findings from KDHE.

The purpose of a substantiation for DCF is to add the perpetrator to the statewide adult abuse registry. K.S.A. 65-6205 allows community services providers, mental health centers and independent living centers to perform employment background checks to determine whether a potential employee is listed on the registry. Any agency not included within the statute can still obtain background information from DCF with a signed release form.

The purpose of a substantiation for KDADS is to add an employment prohibition on the nurse aide registry. Because KDADS investigations involve a Certified Nurse/Medication Aide, the prohibition is entered onto the registry only after the substantiated finding has been made and the appeal period has expired. KDADS has a survey, certification and credentialing commission division responsible for investigating the allegations of abuse, neglect or exploitation or failure to provide care or services to residents in adult care homes licensed by KDADS. These investigations are done to determine compliance with federal and state regulations regarding health, safety and welfare of any resident of those licensed adult care homes.

KDHE investigates reports of adult abuse, neglect and exploitation occurring within medical facilities and non-long term care facilities. Examples include hospitals, ambulatory surgery centers, home health agencies, hospice, rural health clinics, outpatient physical therapy, and portable x-ray units. KDHE has oversight of state-licensed facilities which don't fall under KDADS jurisdiction. KDHE makes a substantiated finding on a licensed individual who is alleged to have committed fraud, abuse or exploitation within the walls of those facilities. Once a finding is made by KDHE, the licensing agency, such as the Board of Nursing or the Board of Healing Arts, is contacted to take action on the perpetrator's license.

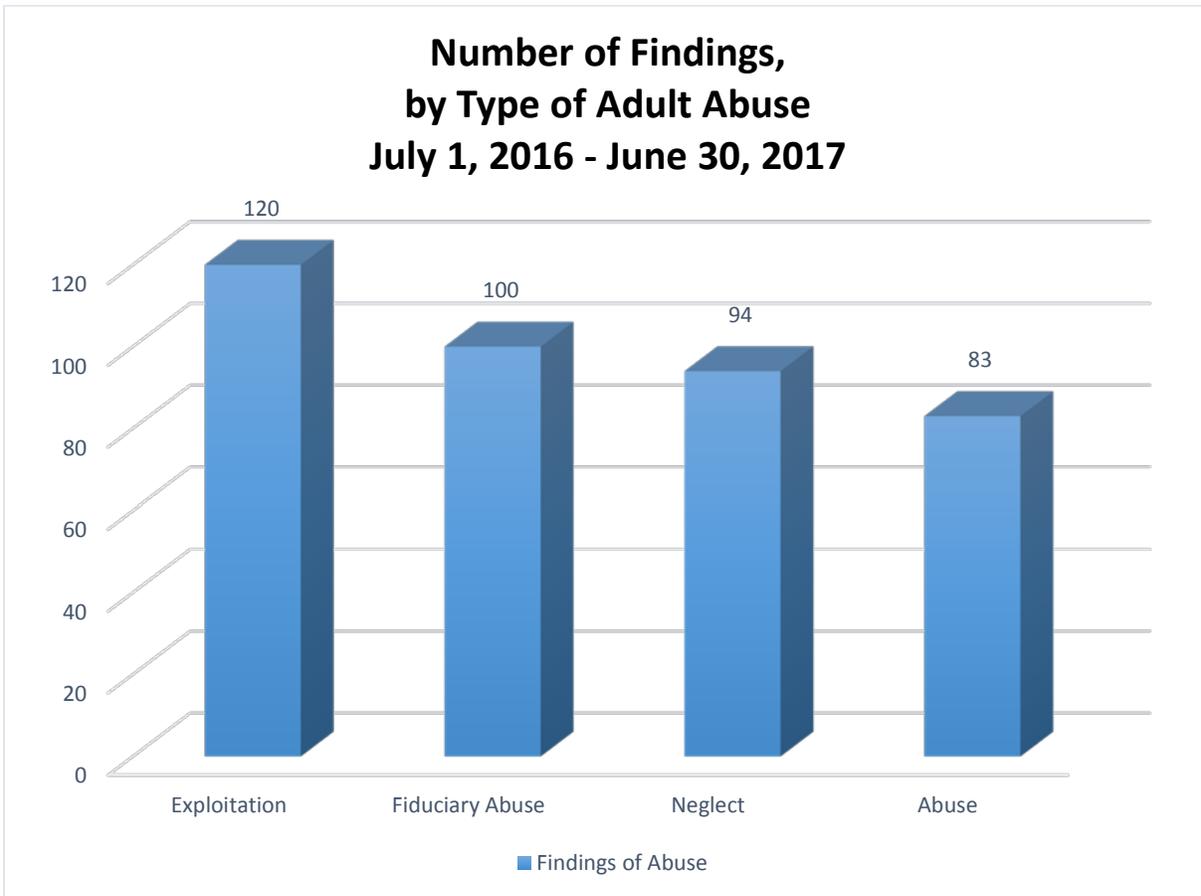


*No referrals were received from KDHE during this reporting period.

The numbers reflected in the total substantiated findings are indicative of a finding with one suspect and one victim. If a finding is received containing more than one suspect, the unit opens one case for each suspect for the sole purpose of accurate reporting. The unit continues to work with state agencies to be sure finding decisions are made and forwarded to the unit in a timely manner.

Please note, zero findings were received from KDHE within this reporting period.

There are four categories of substantiation as used by DCF, KDADS and KDHE: exploitation, fiduciary abuse, neglect and abuse. These vary significantly from the seven allegations in the initial law enforcement referrals. For example, an initial referral may be labeled “sexual abuse,” however, if an investigation leads to a substantiated finding, it will be for “abuse” not “sexual abuse.”



FY 2017 Substantiation Breakdown by County and Agency

COUNTY	KDADS	DCF	TOTAL
Allen County	0	3	3
Anderson County	0	2	2
Atchison County	0	1	1
Barber County	0	0	0
Barton County	0	3	3
Bourbon County	0	2	2
Brown County	0	2	2
Butler County	0	7	7
Chase County	0	0	0
Chautauqua County	0	1	1
Cherokee County	0	1	1
Cheyenne County	0	0	0
Clark County	0	0	0
Clay County	0	1	1
Cloud County	0	3	3
Coffey County	0	0	0
Comanche County	0	0	0
Cowley County	0	4	4
Crawford County	0	10	10
Decatur County	0	0	0
Dickinson County	0	6	6
Doniphan County	0	0	0
Douglas County	0	4	4
Edwards County	0	0	0
Elk County	0	2	2
Ellis County	0	5	5
Ellsworth County	0	4	4
Finney County	0	8	8
Ford County	0	6	6
Franklin County	0	1	1
Geary County	0	7	7
Gove County	0	0	0
Graham County	0	1	1
Grant County	5	0	5
Gray County	0	0	0
Greeley County	0	0	0
Greenwood County	0	0	0
Hamilton County	0	0	0
Harper County	0	1	1
Harvey County	0	4	4

Haskell County	0	0	0
Hodgeman County	0	0	0
Jackson County	0	0	0
Jefferson County	0	2	2
Jewell County	0	0	0
Johnson County	0	52	52
Kearny County	0	0	0
Kingman County	0	0	0
Kiowa County	0	0	0
Labette County	0	5	5
Lane County	0	0	0
Leavenworth County	1	6	7
Lincoln County	0	0	0
Linn County	0	1	1
Logan County	0	0	0
Lyon County	0	3	3
Marion County	0	1	1
Marshall County	0	0	0
McPherson County	0	15	15
Meade County	0	1	1
Miami County	0	2	2
Mitchell County	0	3	3
Montgomery County	0	5	5
Morris County	0	0	0
Morton County	0	1	1
Nemaha County	0	0	0
Neosho County	0	0	0
Ness County	0	0	0
Norton County	0	1	1
Osage County	0	4	4
Osborne County	0	1	1
Ottawa County	0	2	2
Pawnee County	0	1	1
Phillips County	0	1	1
Pottawatomie County	0	4	4
Pratt County	0	2	2
Rawlins County	1	0	1
Reno County	0	6	6
Republic County	0	1	1
Rice County	0	3	3
Riley County	1	5	6
Rooks County	0	0	0
Rush County	0	3	3
Russell County	0	0	0

Saline County	0	8	8
Scott County	0	0	0
Sedgwick County	1	62	63
Seward County	0	2	2
Shawnee County	1	33	34
Sheridan County	0	0	0
Sherman County	0	0	0
Smith County	0	0	0
Stafford County	0	1	1
Stanton County	0	0	0
Stevens County	0	0	0
Sumner County	0	1	1
Thomas County	0	0	0
Trego County	0	0	0
Wabaunsee County	0	2	2
Wallace County	0	0	0
Washington County	0	1	1
Wichita County	0	2	2
Wilson County	0	0	0
Woodson County	0	0	0
Wyandotte County	0	35	35
TOTALS	10	367	377

Investigations and Prosecutions

One of the most important changes of the July 1, 2016, legislative amendments is the unit's new ability to assist in criminal investigations and prosecutions. In order to accommodate these changes, the ANE unit was made part of the newly created FALD. In addition, investigation and prosecution capacity were added within the division to process cases. Once these resources were in place, FALD began receiving and accepting requests for assistance from law enforcement and prosecutors.

Elder and dependent adult abuse cases are often complicated and can take considerable time and resources to investigate. This is because these cases often revolve around an in-depth review of financial documents and require a strong understanding of financial transactions as well as an thorough understanding of the various legal relationships encountered, such as trusts, guardianships, powers of attorney, etc. This can be very time consuming and taxing on law enforcement agencies, especially small agencies.

During the 2017 fiscal year, FALD investigated 10 cases and participated in nine prosecutions. Of these, seven investigations and three prosecutions originated from the ANE unit. The investigations and prosecutions that did not originate from the ANE unit involved general white-collar crimes, such as theft and fraud. Even though these cases do not come from ANE referrals or substantiations, they often include elder victims. Many of these resulted from direct reporting to local law enforcement or reporting to the attorney general's Consumer Protection Division.

It is continued practice for the unit to collaborate with the Medicaid Fraud & Abuse and Consumer Protection divisions within the attorney general's office to assist in cases outside of the unit's spectrum. These divisions are referred findings that our unit received. Those divisions are able to use their resources to investigate further and prosecute cases where crimes or Kansas Consumer Protection Act violations may have occurred. This year the unit identified and referred at least 33 cases. This number has more than doubled from the referrals made during the previous reporting period, and this number is expected to continue to increase.

Education and Outreach

Members of the ANE unit and the broader FALD have participated in a variety of outreach during the past fiscal year. Once a month, at least one member of the unit attends the Johnson County FAST (Financial Abuse Specialist Team) meetings. The unit has been able to work closer with law enforcement agencies within Johnson County not only to obtain information on referrals the unit received, but also to receive information on the status of law enforcement investigations pertaining to substantiated findings by DCF. This is not only beneficial regarding cases, but also valuable in helping the division develop strategies in providing an MDT (Multi Discipline Team) approach to less densely populated areas of the state.

The ANE unit also interacts directly on a daily basis with law enforcement and social service agencies in the state. Often individuals in these disciplines reach out to the unit seeking advice or information regarding an individual case or on a particular type of case. Ensuring the proper sharing of information is an important task of the unit and has been made easier by the recent legislative changes. The unit has logged more than 3,399 such contacts during the 2017 fiscal year.

FALD has also provided instruction for 11 various trainings. The division continues to develop trainings internally and to work with external partners to provide the most updated and accurate training regarding elder and dependent adult abuse. This training has been provided to professionals in a wide range of disciplines including banking, medical, insurance, law enforcement, social work and prosecution. These sessions focus on educating individuals on the ANE unit and FALD activities, changes in the law, and successful strategies in investigating and prosecuting abuse, neglect, and exploitation cases.

Unit Interventions

In numerous cases the ANE unit obtained and facilitated delivery of information needed by DCF, KDADS, KDHE, local law enforcement, or county or district attorneys to ensure the case received proper consideration. In some cases, it was evident a breakdown occurred while information transferred from one agency to another. In other cases, findings were stalled within an individual agency. Unit inquiry brought these cases back to the attention of persons who were able to take additional action which, in some cases, furthered investigations toward completion or prosecution.

For example:

- The unit requested DCF's complete file to review the facts leading to substantiation. After further review of the DCF file, the police report and the substantiation, the unit noted several discrepancies with how the alleged perpetrator's (ALP) name was spelled. On January 3, 2017, the unit informed DCF that the name was spelled two different ways. The unit inquired of DCF as to whether it would be appropriate to amend its finding to change the ALP's name. DCF personnel confirmed the same day they had verified the spelling of the ALP's name and amended their finding within the investigation sub-chapter. DCF forwarded a copy of the amended paperwork to our office and the ALP. If it hadn't been for the unit following up with DCF, the ALP's name would have been misspelled on their Adult Abuse registry, which potentially could have allowed the ALP to obtain a job working with a vulnerable population in the future.
- In January 2017 the unit attempted to close a finding received from KDADS in 2013 involving a CNA. Upon conducting a search of the Kansas Nurse Aide Registry no current employment prohibition was found on file for the perpetrator in this case. The unit inquired with KDADS on the same day as to whether the finding had been appealed and possibly overturned. Two months later on March 13, 2017, when no response had been received from KDADS, the unit followed up again. A response was received on March 14, 2017, stating the case had been appealed, but a default order was issued by the Kansas Office of Administrative Hearings. KDADS found that a Nurse Aide Registry memo had not been issued to place the perpetrator on the registry. The default order took effect in 2014. KDADS staff indicated they would follow up on the information that was in their system and issue the KNAR memo. Ten days later, on March 24, the unit received a copy of the KNAR memo that had been issued and confirmed this by checking the nurse aide registry online. While the CNA's license had lapsed as of October 13, 2016, prior to the unit following up on the prohibition, ensuring the prohibition was active will prevent this CNA from working with dependent adults in the future. It is a routine procedure for the unit to follow up on any finding issued by KDADS to ensure each finding issued results in the employee being placed on the Nurse Aide registry.
- The unit learned of some concerns regarding a lack of investigation and/or prosecution on a substantiation DCF completed in 2014. A social worker had expressed frustration that nothing being done on a financial case in which a son and daughter-in-law were alleged to have used more than \$70,000 of the victim's money for their own benefit. These incidents allegedly occurred in the late part of 2013 through early 2014. When the unit followed up with law enforcement in early 2017 as to what type of investigation had been done, it was determined the report was written for adult abuse but was classified as a miscellaneous/information report only, and a detective was never assigned for further investigation. The unit continued to follow up with law enforcement officials and provided them with an email the law enforcement officials had previously sent stating they would not be opening an investigation. The email stated that if the social worker discovered additional information they would consider assigning an

investigator. Law enforcement responded to the unit's inquiry by saying the issue at the time was that the suspects had durable power of attorney for the victim and claimed the vehicle was purchased to provide the victim transportation to various appointments. Further, the unit learned, there was never a documented narrative with law enforcement's report, but officials advised they would work on getting that information together. In May 2017, law enforcement officials notified our unit they would be forwarding their reports to the district attorney's office to review for possible prosecution. The unit continues to monitor this case.

- Upon normal follow up on a substantiation in February 2017, the unit could not find charges had been filed. During the initial contacts with the prosecutor's office, it was determined the case had not been pulled for review. Two months after the case file was given to the prosecutor, the unit followed up again and learned charges were being filed for criminal use of a financial card, and an active warrant had been issued. Had the unit not followed up, it is unknown if criminal charges would have been filed.
- During normal follow up in February 2017, the unit found no criminal charges had been filed in this case, which stemmed from a substantiation involving an incident within a group home and had listed 10 different victims. After contacting law enforcement, the unit learned their report had been forwarded to the local prosecutor in September 2015. The same day, the unit followed up with the prosecutor's office to inquire about a charging decision. The unit spoke with one of the charging attorneys within that office and was advised that due to shuffling among staff in their office in 2015 this case had been overlooked. He said he would review the police report and inform the unit regarding a charging decision. After the initial phone call, the charging attorney called back to advise he would be filing charges for 10 counts of mistreatment of a dependent adult. A month later, the unit received an email from the charging attorney advising the ALP had been charged with 10 counts as previously indicated and her first appearance was that same morning. ALP pleaded guilty to all counts, was sentenced to probation and ordered to pay restitution. Had the unit not followed up on the charging decision of this case, the police report may have never been reviewed within the statutory timeframe and charges may have never been filed against this perpetrator.
- In spring 2015, the unit received a substantiation involving a financial theft of approximately \$50,000. During the prior reporting period, the unit had referred this case to the Consumer Protection Division of the attorney general's office for further investigation when the local jurisdiction advised that financial crime cases were a "waste of time." As a result of the investigation conducted by the Consumer Protection Division, criminal charges were filed in December 2016 by FALD. The suspect in this case was arrested early 2017, and charges were filed by FALD. If the ANE unit had not referred this case to Consumer Protection for further investigation, there may not have been any further work done on this case. As a result of the unit's continued monitoring and oversight of such cases, this case was able to be worked from start to finish within the attorney general's office.
- In March 2017, a substantiation came to the unit from DCF on a severe neglect case. Upon initial review of the substantiation, the unit learned there had been no receipt of a law enforcement referral. The investigation was assigned to DCF in December 2016 alleging the victim had been severely neglected and had ultimately died from complications of the neglect less than two weeks after being admitted to the hospital. The unit immediately followed up with law enforcement. The unit learned from law enforcement that they had not been notified by DCF until March, after the substantiation had been made, and their report had been classified only as a miscellaneous report. The lieutenant with the police department advised he was missing information and had unanswered questions about the information they had received from DCF. The lieutenant wasn't sure why they had not been contacted prior to March. Because

the law enforcement officials did not receive a referral in December, they were not able to take photographs of the victim, obtain medical reports or do anything that would have aided an investigation on their end. After speaking with law enforcement, the entire DCF file was obtained for the unit to review. The unit learned through several conversations with DCF that law enforcement referrals were not being sent to this specific agency in all cases. In working with DCF supervisors and the law enforcement agency, the unit was able to educate and work with both agencies on the importance of the notifications to law enforcement especially in cases that result in a serious injury or death. This law enforcement agency now has an officer assigned to obtain information on referrals received from DCF and communicate such information with the unit. The open lines of communication have effectively aided DCF, law enforcement and the unit having a closer working relationship.

Looking Forward

On June 22, 2017, Attorney General Derek Schmidt was elected president of the National Association of Attorneys General (NAAG). Each year, the NAAG president identifies an issue to raise public awareness and dedicate Association resources as an initiative during the president's one-year term. The attorney general in August announced that his initiative is "Protecting America's Seniors: Attorneys General United Against Elder Abuse." A NAAG Presidential Initiative Summit will take place April 17-18, 2018, in Manhattan, Kansas. In the coming year, FALD and the ANE unit will be assisting the attorney general achieve success with this presidential initiative.

Over the coming year, FALD and the ANE unit will continue to conduct education and public outreach. As part of this endeavor, we are working with the attorney general's Senior Consumer Protection Advisory Council, chaired by former Attorney General Bob Stephan, to produce a series of trainings related to elder abuse. These trainings will cover several areas including physical abuse, financial abuse, sexual abuse, victim interaction, consent and cognition, etc. The purpose of these trainings is to assist individuals, from a variety of disciplines, in the investigation and prosecution of abuse, neglect, and exploitation. It is also the intent to make the information easily accessible in a variety of formats.

During the 2017 legislative session, the attorney general supported the passage of Senate Bill 23. This new legislation, which took effect July 1, 2017, relocated existing prosecution resources from the Office of the Securities Commissioner and the Kansas Insurance Department to the attorney general's office. These resources are now located within the Fraud and Abuse Litigation Division. Through co-location, cross training, and integrated case management, the State is able to gain efficiencies and allow stronger enforcement of the criminal statutes that prohibit financial crimes. Many victims of securities and insurance fraud are elder or vulnerable adults. The prosecution of these crimes is now located within FALD.

Finally, the ANE unit and FALD will continue to focus on and expand the investigation and prosecution of cases involving abuse, neglect, and exploitation around the state. As part of this effort, the attorney general recently adjusted the case acceptance criteria for criminal cases. For the past six years, the attorney general's Criminal Litigation Division has used four "focus" criteria to guide discretion in criminal case acceptance. These four areas are homicides, Jessica's Law child sex crimes, drug manufacturing or similarly large drug cases, and misconduct case involving public officials. The focus criteria has now expanded to include elder abuse. In addition to case acceptance, a "Focus Forum" is held each year for the focus areas. These Focus Forums are small summit-like meetings among prosecutors who handle particular types of cases. These forums have proven valuable for building capacity and sharing best practices. Starting in 2018, a Focus Forum on elder abuse will be added to the annual discussions.

Appendix I: Statutory Authority

Chapter 75. State Departments; Public Officers and Employees

Article 7. Attorney General

75-723. Abuse, neglect and exploitation unit; confidentiality of investigations; reports forwarded to unit; report to legislature; rules and regulations; prohibition on use of funds; contracting.

(a) There is hereby created in the office of the attorney general an abuse, neglect and exploitation of persons unit.

(b) Except as provided by subsection (h), the information obtained and the investigations conducted by the unit shall be confidential as required by state or federal law. Upon request of the unit, the unit shall have access to all records of reports, investigation documents and written reports of findings related to confirmed cases of abuse, neglect or exploitation of persons or cases in which there is reasonable suspicion to believe abuse, neglect or exploitation of persons has occurred which are received or generated by the Kansas department for children and families, Kansas department for aging and disability services or department of health and environment.

(c) Except for reports alleging only self-neglect, such state agency receiving reports of abuse, neglect or exploitation of persons shall forward to the unit:

(1) Within 10 days of confirmation, reports of findings concerning the confirmed abuse, neglect or exploitation of persons; and

(2) within 10 days of such denial, each report of an investigation in which such state agency was denied the opportunity or ability to conduct or complete a full investigation of abuse, neglect or exploitation of persons.

(d) On or before the first day of the regular legislative session each year, the unit shall submit to the legislature a written report of the unit's activities, investigations and findings for the preceding fiscal year.

(e) The attorney general shall adopt rules and regulations as deemed appropriate for the administration of this section.

(f) No state funds appropriated to support the provisions of the abuse, neglect or exploitation of persons unit and expended to contract with any third party shall be used by a third party to file any civil action against the state of Kansas or any agency of the state of Kansas. Nothing in this section shall prohibit the attorney general from initiating or participating in any civil action against any party.

(g) The attorney general may contract with other agencies or organizations to provide services related to the investigation or litigation of findings related to abuse, neglect or exploitation of persons.

(h) Notwithstanding any other provision of law, nothing shall prohibit the attorney general or the unit from distributing or utilizing only that information obtained pursuant to a confirmed case of abuse, neglect or exploitation or cases in which there is reasonable suspicion to believe abuse, neglect or exploitation has occurred pursuant to this section with any third party contracted with by the attorney general to carry out the provisions of this section.

History: L. 2006, ch. 181, § 1; L. 2014, ch. 115, § 313; July 1.

Chapter 39. Mentally Ill, Incapacitated and Dependent Persons, Social Welfare

Article 14. Reporting Abuse, Neglect or Exploitation of Certain Persons

39-1433. Same; duties of Kansas department for children and families; personal visit; investigation and evaluation; findings referred to appropriate regulating authority, when; information provided to certain persons.

The Kansas department for children and families upon receiving a report that an adult is being, or has been abused, neglected, or exploited or is in need of protective services, shall:

(1) When a criminal act has occurred or has appeared to have occurred, immediately notify, in writing, the appropriate law enforcement agency;

(2) make a personal visit with the involved adult:

(A) Within 24 hours when the information from the reporter indicates imminent danger to the health or welfare of the involved adult;

(B) within three working days for all reports of suspected abuse, when the information from the reporter indicates no imminent danger;

(C) within five working days for all reports of neglect or exploitation when the information from the reporter indicates no imminent danger.

(3) Complete, within 30 working days of receiving a report, a thorough investigation and evaluation to determine the situation relative to the condition of the involved adult and what action and services, if any, are required. The evaluation shall include, but not be limited to, consultation with those individuals having knowledge of the facts of the particular case. If conducting the investigation within 30 working days would interfere with an ongoing criminal investigation, the time period for the investigation shall be extended, but the investigation and evaluation shall be completed within 90 working days. If a finding is made prior to the conclusion of the criminal investigation, the investigation and evaluation may be reopened and a new finding made based on any additional evidence provided as a result of the criminal investigation. If the alleged perpetrator is licensed, registered or otherwise regulated by a state agency, such state agency also shall be notified upon completion of the investigation or sooner if such notification does not compromise the investigation.

(4) Prepare, upon completion of the investigation of each case, a written assessment which shall include an analysis of whether there is or has been abuse, neglect or exploitation, recommended action, a determination of whether protective services are needed, and any follow-up.

(b) The secretary for children and families shall forward any finding of abuse, neglect or exploitation alleged to have been committed by a provider of services licensed, registered or otherwise authorized to provide services in this state to the appropriate state authority which regulates such provider. The appropriate state regulatory authority may consider the finding in any disciplinary action taken with respect to the provider of services under the jurisdiction of such authority.

(c) The Kansas department for children and families shall inform the complainant, upon request of the complainant, that an investigation has been made and if the allegations of abuse, neglect or exploitation have been substantiated, that corrective measures will be taken, upon completion of the investigation or sooner, if such measures do not jeopardize the investigation.

(d) The Kansas department for children and families may inform the chief administrative officer of community facilities licensed pursuant to K.S.A. 75-3307b, and amendments thereto, of confirmed findings of resident abuse, neglect or exploitation.

History: L. 1989, ch. 129, § 4; L. 1998, ch. 200, § 10; L. 2003, ch. 91, § 14; L. 2005, ch. 30, § 1; L. 2014, ch. 115, § 170; July 1.

39-1404. Same; duties of Kansas department for aging and disability services and department of health and environment; personal visit; investigation and evaluation; information provided to certain persons.

(a) The department of health and environment or the Kansas department for aging and disability services upon receiving a report that a resident is being, or has been, abused, neglected or exploited, or is in a condition which is the result of such abuse, neglect or exploitation or is in need of protective services shall:

(1) When a criminal act has occurred or has appeared to have occurred, immediately notify, in writing, the appropriate law enforcement agency;

(2) make a personal visit with the involved resident:

(A) Within 24 hours when the information from the reporter indicates imminent danger to the health or welfare of the involved resident;

(B) within three working days for all reports of suspected abuse, when the information from the reporter indicates no imminent danger; or

(C) within five working days for all reports of neglect or exploitation when the information from the reporter indicates no imminent danger.

(3) Complete, within 30 working days of receiving a report, a thorough investigation and evaluation to determine the situation relative to the condition of the involved resident and what action and services, if any, are required. The investigation shall include, but not be limited to, consultation with those individuals having knowledge of the facts of the particular case; and

(4) prepare, upon a completion of the evaluation of each case, a written assessment which shall include an analysis of whether there is or has been abuse, neglect or exploitation; recommended action; a determination of whether protective services are needed; and any follow up.

(b) The department which investigates the report shall inform the complainant, upon request of the complainant, that an investigation has been made and, if the allegations of abuse, neglect or exploitation have been substantiated, that corrective measures will be taken if required upon completion of the investigation or sooner if such measures do not jeopardize the investigation.

(c) The Kansas department for aging and disability services may inform the chief administrative officer of a facility as defined by K.S.A. 39-923, and amendments thereto, within 30 days of confirmed findings of resident abuse, neglect or exploitation.

History: L. 1980, ch. 124, § 4; L. 1983, ch. 149, § 4; L. 1990, ch. 153, § 4; L. 1997, ch. 161, § 5; L. 1998, ch. 200, § 6; L. 2003, ch. 91, § 5; L. 2003, ch. 149, § 27; L. 2014, ch. 115, § 159; July 1.

39-1431. Abuse, neglect or exploitation of certain adults; reporting abuse, neglect or exploitation or need of protective services; persons required to report; penalty for failure to report; posting notice of requirements of act.

(a) Any person who is licensed to practice any branch of the healing arts, a licensed psychologist, a licensed master level psychologist, a licensed clinical psychotherapist, the chief administrative officer of a medical care facility, a teacher, a licensed social worker, a licensed professional nurse, a licensed practical nurse, a licensed dentist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, registered alcohol and drug abuse counselor, a law enforcement officer, a case manager, a rehabilitation counselor, a bank trust officer or any other officers of financial institutions, a legal representative, a governmental assistance provider, an owner or operator of a residential care facility, an independent living counselor and the chief administrative officer of a licensed home health agency, the chief administrative officer of an adult family home and the chief administrative officer of a provider of community services and affiliates thereof operated or funded by the Kansas department for aging and disability services or licensed under K.S.A. 75-3307b, and amendments thereto, who has reasonable cause to

believe that an adult is being or has been abused, neglected or exploited or is in need of protective services shall report, immediately from receipt of the information, such information or cause a report of such information to be made in any reasonable manner. An employee of a domestic violence center shall not be required to report information or cause a report of information to be made under this subsection. Other state agencies receiving reports that are to be referred to the Kansas department for children and families and the appropriate law enforcement agency, shall submit the report to the department and agency within six hours, during normal work days, of receiving the information. Reports shall be made to the Kansas department for children and families during the normal working week days and hours of operation. Reports shall be made to law enforcement agencies during the time the Kansas department for children and families is not in operation. Law enforcement shall submit the report and appropriate information to the Kansas department for children and families on the first working day that the Kansas department for children and families is in operation after receipt of such information.

(b) The report made pursuant to subsection (a) shall contain the name and address of the person making the report and of the caretaker caring for the involved adult, the name and address of the involved adult, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the involved adult, if known, and any other information which the person making the report believes might be helpful in the investigation of the case and the protection of the involved adult.

(c) Any other person, not listed in subsection (a), having reasonable cause to suspect or believe that an adult is being or has been abused, neglected or exploited or is in need of protective services may report such information to the Kansas department for children and families. Reports shall be made to law enforcement agencies during the time the Kansas department for children and families is not in operation.

(d) A person making a report under subsection (a) shall not be required to make a report under K.S.A. 39-1401 to 39-1410, inclusive, and amendments thereto.

(e) Any person required to report information or cause a report of information to be made under subsection (a) who knowingly fails to make such report or cause such report not to be made shall be guilty of a class B misdemeanor.

(f) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous public place in every adult family home as defined in K.S.A. 39-1501, and amendments thereto, and every provider of community services and affiliates thereof operated or funded by the Kansas department for aging and disability services or other facility licensed under K.S.A. 75-3307b, and amendments thereto, and other institutions included in subsection (a).

History: L. 1989, ch. 129, § 2; L. 1998, ch. 200, § 9; L. 2001, ch. 154, § 4; L. 2003, ch. 91, § 12; L. 2014, ch. 115, § 168; July 1.

39-1402. Abuse, neglect or exploitation of residents; reporting abuse, neglect or exploitation or need of protective services; persons required to report; contents of report; posting notice of requirements of act; penalty for failure to report.

(a) Any person who is licensed to practice any branch of the healing arts, a licensed psychologist, a licensed master level psychologist, a licensed clinical psychotherapist, a chief administrative officer of a medical care facility, an adult care home administrator or operator, a licensed social worker, a licensed professional nurse, a licensed practical nurse, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, registered alcohol and drug abuse counselor, a teacher, a bank trust officer and any other officers of financial institutions, a legal representative or a governmental assistance provider who has reasonable cause to believe that a resident is being or has been abused, neglected or exploited, or is in a condition which is the result of such abuse, neglect or

exploitation or is in need of protective services, shall report immediately such information or cause a report of such information to be made in any reasonable manner to the Kansas department for aging and disability services with respect to residents defined under subsection (a)(1) of K.S.A. 39-1401, and amendments thereto, to the department of health and environment with respect to residents defined under subsection (a)(2) of K.S.A. 39-1401, and amendments thereto, and to the Kansas department for children and families and appropriate law enforcement agencies with respect to all other residents. Reports made to one department which are required by this subsection to be made to the other department shall be referred by the department to which the report is made to the appropriate department for that report, and any such report shall constitute compliance with this subsection. Reports shall be made during the normal working week days and hours of operation of such departments. Reports shall be made to law enforcement agencies during the time the departments are not open for business. Law enforcement agencies shall submit the report and appropriate information to the appropriate department on the first working day that such department is open for business. A report made pursuant to K.S.A. 65-4923 or 65-4924, and amendments thereto, shall be deemed a report under this section.

(b) The report made pursuant to subsection (a) shall contain the name and address of the person making the report and of the caretaker caring for the resident, the name and address of the involved resident, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the resident, if known, and any other information which the person making the report believes might be helpful in an investigation of the case and the protection of the resident.

(c) Any other person, not listed in subsection (a), having reasonable cause to suspect or believe that a resident is being or has been abused, neglected or exploited, or is in a condition which is the result of such abuse, neglect or exploitation or is in need of protective services may report such information to the Kansas department for aging and disability services with respect to residents defined under subsection (a)(1) of K.S.A. 39-1401, and amendments thereto, to the department of health and environment with respect to residents defined under subsection (a)(2) of K.S.A. 39-1401, and amendments thereto, and to the Kansas department for children and families with respect to all other residents. Reports made to one department which are to be made to the other department under this section shall be referred by the department to which the report is made to the appropriate department for that report.

(d) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous public place in every adult care home and medical care facility in this state.

(e) Any person required to report information or cause a report of information to be made under subsection (a) who knowingly fails to make such report or cause such report to be made shall be guilty of a class B misdemeanor.

History: L. 1980, ch. 124, § 2; L. 1983, ch. 149, § 2; L. 1985, ch. 152, § 1; L. 1986, ch. 299, § 6; L. 1990, ch. 153, § 2; L. 1998, ch. 200, § 5; L. 2001, ch. 154, § 3; L. 2003, ch. 91, § 3; L. 2003, ch. 149, § 26; L. 2014, ch. 115, § 158; July 1.

Appendix II: DCF Glossary Terms of Abuse

Abuse: Any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to an adult including:

1. infliction of physical or mental injury;
2. any sexual act with an adult when the adult does not consent or when the other person knows or should know that the adult is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship;
3. unreasonable use of a physical restraint, isolation or medication that harms or is likely to harm an adult;
4. unreasonable use of physical or chemical restraint, medication or isolation as punishment, for convenience, in conflict with a physician's orders or as a substitute for treatment, except where such conduct or physical restraint is in furtherance of the health and safety of the adult;
5. a threat or menacing conduct directed toward an adult that results or might reasonably be expected to result in fear or emotional or mental distress to an adult;
6. fiduciary abuse; or
7. omission or deprivation by a caretaker or another person of goods or services which are necessary to avoid physical or mental harm or illness K.S.A. 39-1430(a).

Exploitation: Misappropriation of an adult's property or intentionally taking unfair advantage of an adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation of false pretense by a caretaker or another person K.S.A. 39-1430(d).

Fiduciary Abuse: A situation in which any person who is the caretaker of, or who stands in a position of trust to, an adult, takes, secretes, or appropriates his/her money or property, to any use of purpose not in the due and lawful execution of such person's trust or benefit.

Neglect: The failure or omission by one's self, caretaker or another person with a duty to supply or to provide goods or services which are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness K.S.A. 39-1430 (c).

Vulnerable Adult: An individual 18 years of age and older adult who is at risk of self-harm or harm from another individual due to physical, emotional or mental impairments that severely limit his/her ability to manage his/her home, or personal or financial affairs.

Appendix III: Cases Filed

Status Reported as of June 30, 2017

State v. Bruce Colle

Rice County, Case No. 16-CR-135

Defendant charged with one count mistreatment of an elder person (level 5 felony). The case remains pending

State v. Brian Glenn

Douglas County, Case No. 16-CR-1068

Defendant charged with one count counterfeiting (level 9 felony). The case remains pending.

State v. Tricia Jones

Woodson County, Case No. 16-CR-22

Defendant charged with three counts felony theft (level 9). The defendant entered into a diversion agreement on October 26, 2016. The defendant was ordered to pay \$20,000 in restitution.

State v. Travis Kaiser

Shawnee County, Case No. 17-CR-686

Defendant charged with one count violation of a consumer protection order (level 9 felony). The case remains pending.

State v. Jennifer McKone

Geary County, Case No. 17-CR-275

Defendant charged with one count possession with intent to distribute marijuana (level 3 felony) one count possession of drug paraphernalia with intent to use (level 5 felony), one count perjury (level 9 felony), and two counts felony theft (one level 9 one level 7). The case remains pending

State v. Linda Pressley

Ellsworth County, Case No. 17-CR-74

Defendant charged with one count of mistreatment of an elder person (level 7 felony) The case remains pending.

State v. David Rosales

Finney County, Case No. 16-CR-270

Defendant charged with two counts felony theft by deception (level 9), one count theft by deception (class A misdemeanor) or in the alternative deceptive commercial practice (class A misdemeanor), and one count deceptive commercial practice (class A misdemeanor). The case remains pending.

State v. Lindsay Wardlaw

Leavenworth County, Case No. 17-CR-62

Defendant charged with 12 counts of unlawful acts concerning computers (class A misdemeanor). Defendant was acquitted at trial.

State v. Betty Sue Woods

Rush County 16CR90

Defendant charged with one count mistreatment of an elder person (level 5 felony). The case remains pending.



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