

# 2018



**KANSAS ATTORNEY GENERAL**

**Derek Schmidt**

**Abuse, Neglect & Exploitation Unit  
Kansas Fiscal Year 2018  
Annual Report**

July 1, 2017 – June 30, 2018

[www.ag.ks.gov](http://www.ag.ks.gov)



# Kansas Attorney General Derek Schmidt



January 14, 2019

Dear Fellow Kansans:

It is my pleasure to present the Fiscal Year 2018 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. 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.

Our ANE unit is continuing its work to prevent cases from falling through jurisdictional cracks as they are handled by various state and local agencies throughout Kansas, to build capacity to combat vulnerable adult abuse throughout our state, and to investigate and prosecute individual cases as appropriate.

The Fraud and Abuse Litigation Division, which was created July 1, 2016, at the Office of the Attorney General, now houses the ANE unit and provides a framework for more robust efforts to counter vulnerable adult abuse throughout our state. During its first two years of operation, we can report that the changes are strengthening our state's response to criminal abuse, neglect and exploitation of vulnerable adults. This includes the Division's work in investigating and prosecuting not only cases that originated from the ANE unit, but also cases resulting from our partnerships with the Department of Insurance, Office of the Securities Commissioner and, beginning March 13, 2018, the Department of Revenue. Therefore, in addition to the work of the ANE unit, this report also seeks to capture a snapshot of the work being done across the Fraud and Abuse Litigation Division.

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

Best wishes,

A handwritten signature in black ink that reads "Derek". The signature is written in a cursive, slightly stylized font.

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 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, which then 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 which 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 K.S.A. 75-723 to allow the attorney general's office to assist in the investigation, prosecution, and prevention of cases involving abuse, neglect, and exploitation of vulnerable adults. This change of focus to investigation and prosecution, meant it was no longer appropriate for the ANE unit to be located in 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 a newly created division named the 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 vulnerable 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. These findings come to the ANE unit from the Adult Protective Services (APS) section of Kansas Department for Children and Families (DCF), Kansas Department for Aging and Disability Services (KDADS), and Kansas Department of Health and Environment (KDHE).

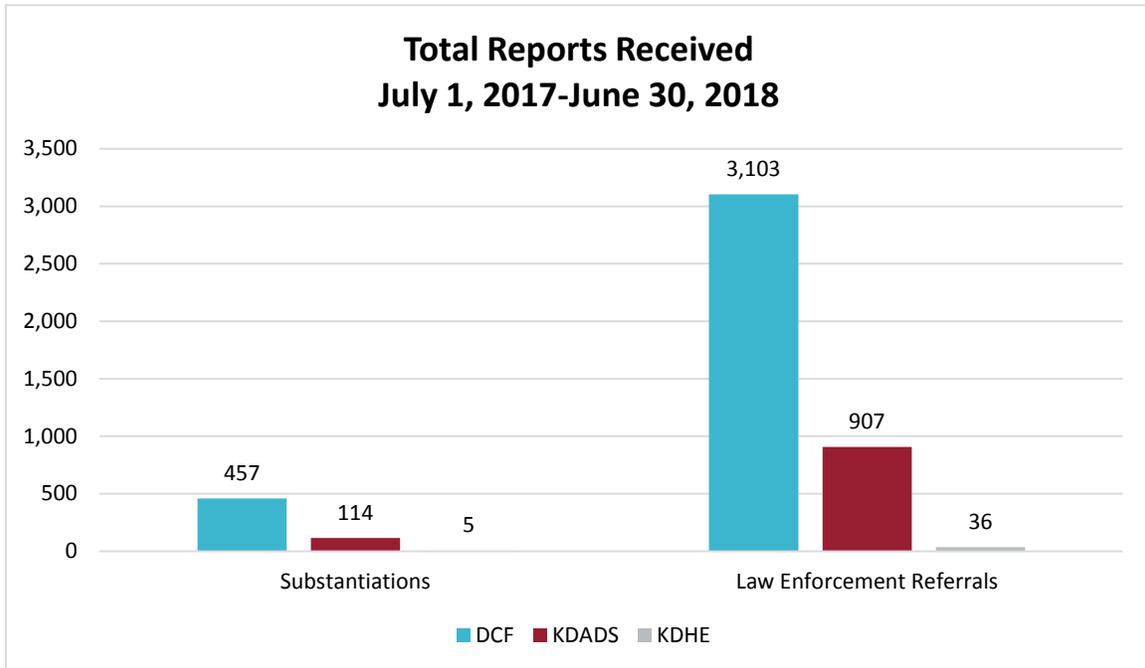
In Fiscal Year 2018, the unit had another productive year. In addition to sharing statistical data for the reports received, this year's annual report provides a broad overview of the unit's activities. It provides the statutes that impact the daily activity of the agencies we interact with as well as 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.

Since its 2016 creation, FALD has continued to provide education, investigation, and prosecution as it relates to several areas of the law. In 2017, the attorney general supported the passage of Senate Bill 23. This new legislation 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. In March of 2018, the attorney general's office entered into agreement with the Kansas Department of Revenue (KDOR) to assist in the enforcement and prosecution of cases arising out of investigations conducted by their Office of Special Investigations. This process is coordinated with the appropriate county or district attorney. 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, which often involve vulnerable adults as victims. This report focuses on the work of FALD in the above areas by giving statistics related to prosecution and gives examples of common cases prosecuted by the division.

# Fiscal Year 2018

The ANE unit is required to review all cases forwarded by a state agency involving a confirmed (substantiated) finding of abuse. 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, 2017, through June 30, 2018, the ANE unit received a total of 4,622 reports of abuse, neglect or exploitation.

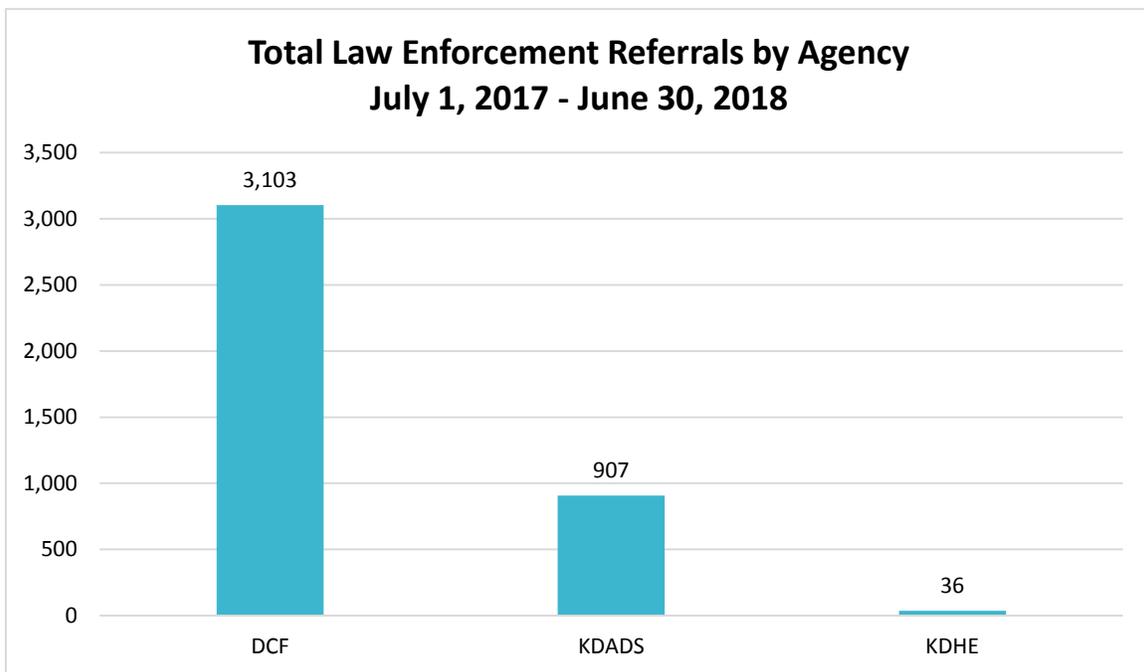
Of the 4,622 reports of abuse, neglect or exploitation from the above agencies a majority were initial referrals to law enforcement agencies and the remaining were substantiated findings of abuse, neglect or exploitation.



# Law Enforcement Referrals

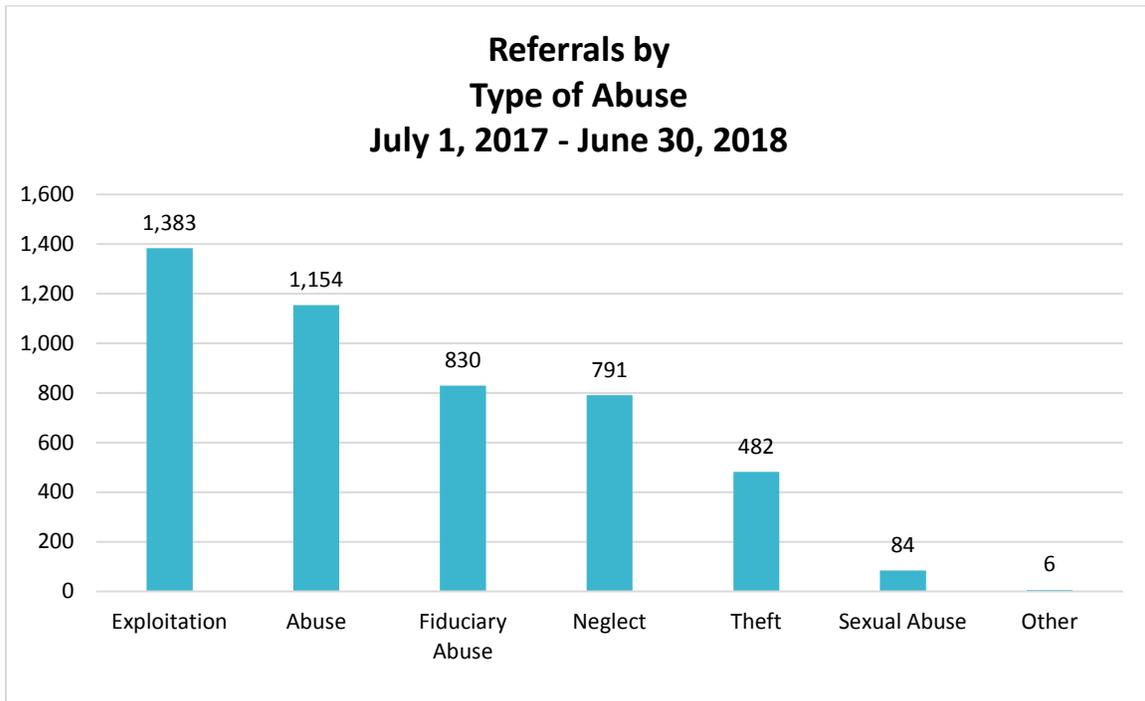
DCF, KDADS and KDHE are mandated by law to report possible criminal acts to law enforcement (K.S.A 39-1433 and K.S.A 39-1404). The reporting state agency is required to complete a written notification to law enforcement (initial referrals). These referrals can take place at any point during a state agency’s 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.

Over the past year, the unit has worked closely with all 105 counties within the state. The law enforcement agencies within each jurisdiction have cooperated and responded to inquiries regarding whether further investigations are taking place as a result of the law enforcement referrals. The unit continues to work with each law enforcement agency in building closer working relationships, as well as offering investigative and or prosecution assistance where it may be needed.



During this reporting period the unit received 4,046 law enforcement referrals. Each referral is assigned a type of allegation as designated by our unit. The unit’s designation is determined using the facts provided, statutory and regulatory authority, and agency policies and procedures. The seven types are abuse, neglect, exploitation, theft, fiduciary abuse, sexual abuse and “other.” Some referrals contain one or more type of abuse, which the unit counted as one referral, but reported the total number of allegations.

Exploitation was the most reported allegation in all of the referrals received by the unit at 1,383. The unit received 1,154 abuse referrals, 830 fiduciary abuse, 791 neglect, 482 theft, and 84 sexual abuse. The unit categorized six “other” referrals this year in cases where the allegation was not clear. 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 do not require notification to law enforcement. A majority of the exploitation referrals the unit received were related to financial exploitation.



**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](http://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](http://www.kdads.ks.gov)

In addition, the Aging and Disability Resource Center (ADRC) is now available and is a trusted source of information where people of all ages, abilities and income levels – and their caregivers – can go to obtain assistance in planning for their future long-term service and support needs. The ADRC website is found at <http://kdads.ks.gov/commissions/commission-on-aging/aging-and-disability-resource-centers>

**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](http://www.kdheks.gov)

## LAW ENFORCEMENT REFERRAL BREAKDOWN BY COUNTY JULY 1, 2017 – JUNE 30, 2018

The below chart is a county breakdown showing law enforcement referrals received from each county with notice given to the attorney general's office. The population shown is individuals age 18 and over in each county. A zero number doesn't necessarily indicate no reports were made, but does indicate the attorney general's office did not receive notification.

County	Population 18+	KDADS	KDHE	DCF	TOTAL	RATE PER 1,000
Allen County	9,663	2	0	7	9	.93
Anderson County	5,980	0	0	1	1	.17
Atchison County	12,464	3	0	12	15	1.20
Barber County	3,528	0	0	8	8	2.27
Barton County	20,144	11	0	54	65	3.23
Bourbon County	10,938	12	0	12	24	2.19
Brown County	7,201	2	0	5	7	.97
Butler County	49,638	32	0	75	107	2.15
Chase County	2,124	0	0	2	2	.94
Chautauqua County	2,663	0	0	5	5	1.88
Cherokee County	15,430	0	0	14	14	.91
Cheyenne County	2,103	0	0	4	4	1.90
Clark County	1,525	1	0	4	5	3.28
Clay County	6,121	9	0	17	26	4.25
Cloud County	6,918	5	0	23	28	4.05
Coffey County	6,444	2	0	15	17	2.64
Comanche County	1,345	1	0	3	4	2.97
Cowley County	26,906	18	1	71	90	3.34
Crawford County	30,560	19	0	44	63	2.06
Decatur County	2,319	1	0	5	6	2.59

County	Population 18+	KDADS	KDHE	DCF	TOTAL	RATE PER 1,000
Dickinson County	14,346	9	0	44	53	3.69
Doniphan County	6,081	4	0	9	13	2.14
Douglas County	98,133	15	2	61	78	.79
Edwards County	2,222	1	0	1	2	.90
Elk County	1,985	0	0	1	1	.50
Ellis County	22,463	5	0	44	49	2.18
Ellsworth County	5,149	0	0	7	7	1.36
Finney County	25,692	4	0	59	63	2.45
Ford County	24,012	18	0	42	60	2.50
Franklin County	19,423	2	0	27	29	1.49
Geary County	23,285	6	0	53	59	2.53
Gove County	2,000	1	0	6	7	3.50
Graham County	1,994	1	0	6	7	3.51
Grant County	5,174	0	0	3	3	.58
Gray County	4,243	0	0	1	1	.24
Greeley County	936	0	0	1	1	1.07
Greenwood County	4,826	0	0	6	6	1.24
Hamilton County	1,858	0	0	3	3	1.61
Harper County	4,190	3	0	10	13	3.10
Harvey County	26,091	7	1	81	89	3.41
Haskell County	2,893	1	0	4	5	1.73
Hodgeman County	1,430	1	0	1	2	1.40
Jackson County	9,960	0	0	12	12	1.20
Jefferson County	14,638	5	0	13	18	1.23

County	Population 18+	KDADS	KDHE	DCF	TOTAL	RATE PER 1,000
Jewell County	2,316	0	0	5	5	2.16
Johnson County	395,859	167	13	312	492	1.24
Kearny County	2,809	0	0	5	5	1.78
Kingman County	5,726	2	0	8	10	1.75
Kiowa County	1,932	0	0	0	0	0
Labette County	15,407	4	0	20	24	1.56
Lane County	1,218	0	0	1	1	.82
Leavenworth County	61,784	25	0	61	86	1.39
Lincoln County	2,356	0	0	7	7	2.97
Linn County	7,486	0	0	5	5	.67
Logan County	2,152	0	0	6	6	2.79
Lyon County	25,936	2	0	74	76	2.93
McPherson County	22,018	16	0	53	69	3.13
Marion County	9,443	6	0	19	25	2.65
Marshall County	7,427	1	0	6	7	.94
Meade County	3,155	2	0	7	9	2.85
Miami County	25,167	10	0	23	33	1.31
Mitchell County	4,739	1	0	10	11	2.32
Montgomery County	24,852	6	0	34	40	1.61
Morris County	4,377	1	0	9	10	2.28
Morton County	2,085	4	0	0	4	1.92
Nemaha County	7,448	3	4	2	9	1.21
Neosho County	12,118	7	0	26	33	2.72
Ness County	2,243	8	0	8	16	7.13

County	Population 18+	KDADS	KDHE	DCF	TOTAL	RATE PER 1,000
Norton County	4,420	2	0	10	12	2.71
Osage County	12,105	2	0	18	20	1.65
Osborne County	2,837	3	0	8	11	3.88
Ottawa County	4,533	2	0	4	6	1.32
Pawnee County	5,530	2	0	14	16	2.89
Phillips County	4,152	1	0	14	15	3.61
Pottawatomie County	16,994	3	0	19	22	1.29
Pratt County	7,218	3	0	16	19	2.63
Rawlins County	1,993	1	0	2	3	1.50
Reno County	48,403	21	0	151	172	3.55
Republic County	3,732	0	0	5	5	1.34
Rice County	7,396	1	0	14	15	2.03
Riley County	61,871	9	0	73	82	1.32
Rooks County	3,915	0	0	16	16	4.09
Rush County	2,450	3	0	1	4	1.63
Russell County	5,428	5	0	12	17	3.13
Saline County	41,898	11	0	98	109	2.60
Scott County	3,641	0	0	3	3	.82
Sedgwick County	380,721	161	10	426	597	1.57
Seward County	15,227	5	0	42	47	3.09
Shawnee County	135,663	91	1	324	416	3.07
Sheridan County	1,906	0	0	2	2	1.05
Sherman County	4,510	0	0	8	8	1.77
Smith County	2,931	4	0	5	9	3.07

County	Population 18+	KDADS	KDHE	DCF	TOTAL	RATE PER 1,000
Stafford County	3,180	2	0	9	11	3.46
Stanton County	1,482	1	0	0	1	.67
Stevens County	3,967	7	0	0	7	1.76
Sumner County	17,452	9	0	32	41	2.35
Thomas County	5,990	6	0	9	15	2.50
Trego County	2,318	0	0	4	4	1.73
Wabaunsee County	5,228	5	0	8	13	2.49
Wallace County	1,138	0	0	4	4	3.51
Washington County	4,250	0	0	13	13	3.06
Wichita County	1,565	0	0	3	3	1.92
Wilson County	6,597	0	0	7	7	1.06
Woodson County	2,498	1	0	1	2	.80
Wyandotte County	119,020	80	4	151	235	1.97
<b>TOTALS</b>	<b>1,799,585</b>	<b>907</b>	<b>36</b>	<b>3103</b>	<b>4,046</b>	<b>2.25</b>

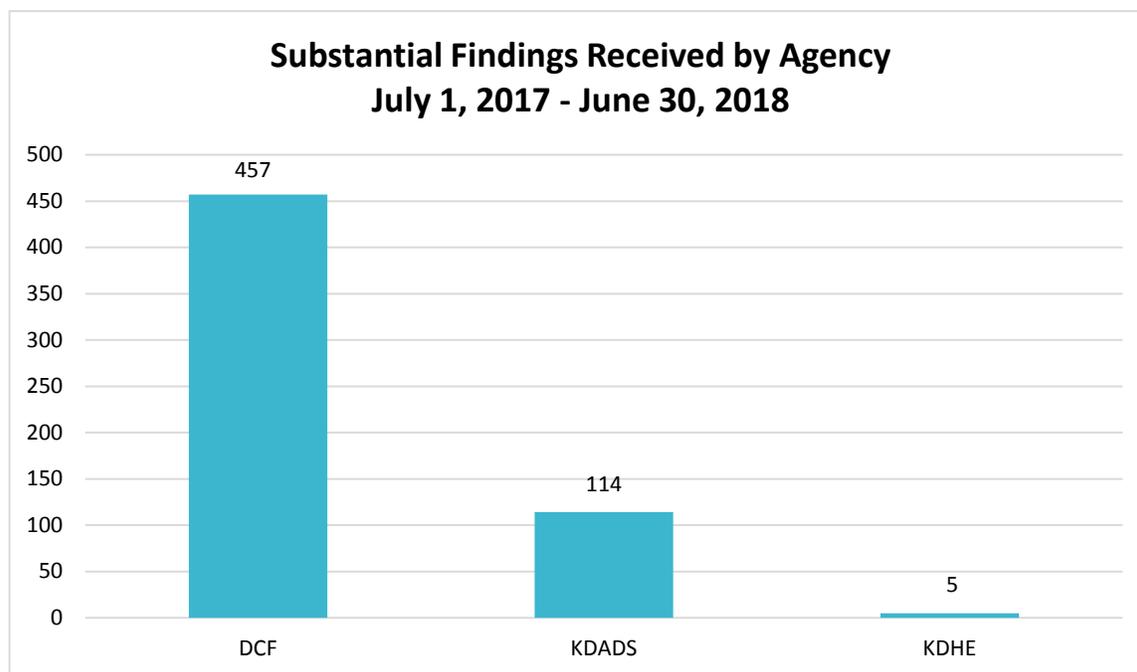
# Substantiations

During this reporting period the ANE unit received a total of 576 substantiations from DCF, KDADS and KDHE.

The purpose of a substantiation for DCF is to add the perpetrator to the state wide 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.

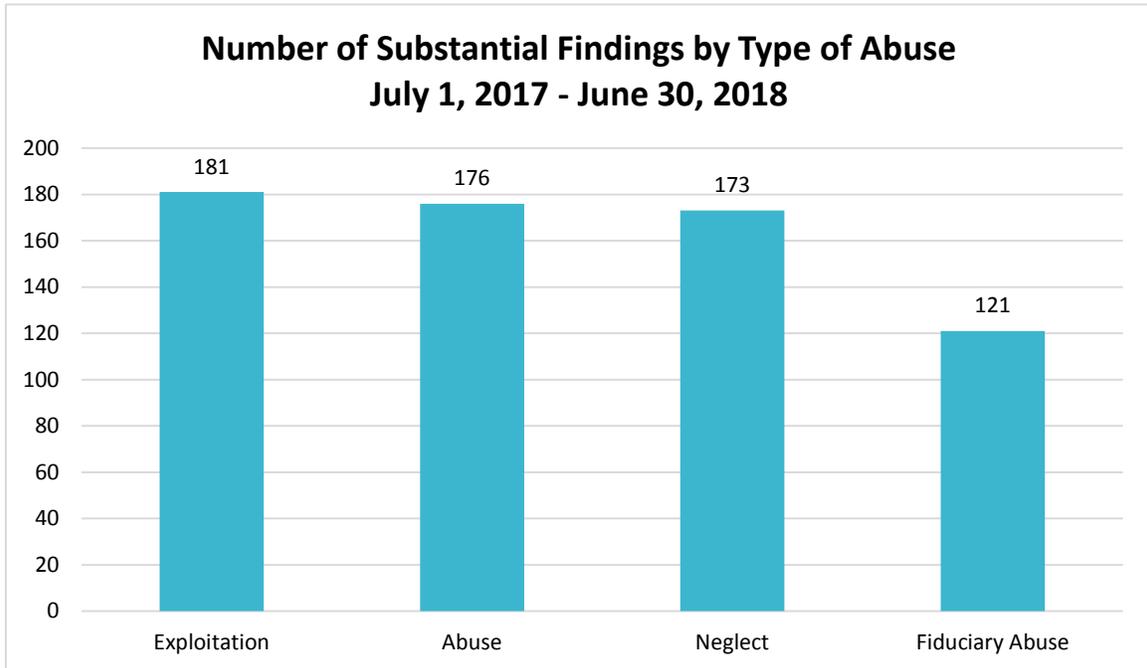
KDADS' purpose of a substantiation is to add an employment prohibition on the nurse aide registry. Because KDADS investigations involve a Certified Nurse/Medication Aide, the prohibition is entered onto the registry after the appeal period has expired after the substantiated finding has been made. KDADS 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 the KDADS caveat. 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 is contacted to take action on the perpetrator's license, whether it be Board of Nursing, or to KDADS for nurse aide registry prohibitions.



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 respectively for each finding for the sole purpose of accurate reporting. The unit continues to work closely with each state agency to ensure finding decisions are made and forwarded to the unit in a timely manner.

There are four categories of substantiation as used by DCF, KDADS and KDHE: abuse, neglect, exploitation, and fiduciary abuse. These vary significantly from the seven allegations in the initial referrals. An initial referral may be, for example, labeled “sexual abuse.” However, if an investigation leads to a substantiated finding, it will be for “abuse” not “sexual abuse.” This is because the unit designates referral allegations, while the state agency’s legal determination is used to designate substantiated allegations.



**SUBSTANTIATION BREAKDOWN BY COUNTY AND AGENCY  
JULY 1, 2017 – JUNE 30, 2018**

COUNTY	KDADS	DCF	KDHE	TOTAL
Allen County	0	2	0	2
Anderson County	0	1	0	1
Atchison County	0	0	0	0
Barber County	0	1	0	1
Barton County	2	4	0	6
Bourbon County	0	2	0	2
Brown County	0	1	0	1
Butler County	4	24	0	28
Chase County	0	0	0	0
Chautauqua County	0	0	0	0
Cherokee County	0	0	0	0
Cheyenne County	0	1	0	1
Clark County	0	0	0	0
Clay County	3	0	0	3
Cloud County	2	2	0	4
Coffey County	0	1	0	1
Comanche County	0	0	0	0
Cowley County	2	6	0	8
Crawford County	0	2	0	2
Decatur County	0	1	0	1
Dickinson County	0	7	0	7
Doniphan County	0	3	0	3
Douglas County	3	8	0	11

COUNTY	KDADS	DCF	KDHE	TOTAL
Edwards County	0	3	0	3
Elk County	0	0	0	0
Ellis County	0	9	0	9
Ellsworth County	3	1	0	4
Finney County	0	14	0	14
Ford County	1	3	0	4
Franklin County	0	5	0	5
Geary County	0	6	1	7
Gove County	0	0	0	0
Graham County	3	5	0	8
Grant County	0	0	0	0
Gray County	0	0	0	0
Greeley County	0	0	0	0
Greenwood County	0	2	0	2
Hamilton County	0	0	0	0
Harper County	1	2	0	3
Harvey County	0	7	0	7
Haskell County	0	0	0	0
Hodgeman County	0	0	0	0
Jackson County	0	3	0	3
Jefferson County	1	3	0	4
Jewell County	0	1	0	1
Johnson County	15	45	1	61
Kearny County	0	2	0	2
Kingman County	0	1	0	1

COUNTY	KDADS	DCF	KDHE	TOTAL
Kiowa County	0	0	0	0
Labette County	0	9	0	9
Lane County	0	0	0	0
Leavenworth County	6	7	0	13
Lincoln County	0	0	0	0
Linn County	0	1	0	1
Logan County	0	0	0	0
Lyon County	2	2	0	4
Marion County	0	1	0	1
Marshall County	4	3	0	7
McPherson County	2	7	0	9
Meade County	0	0	0	0
Miami County	1	5	0	6
Mitchell County	0	1	0	1
Montgomery County	2	3	0	5
Morris County	0	0	0	0
Morton County	3	0	0	3
Nemaha County	0	0	0	0
Neosho County	2	4	0	6
Ness County	3	1	0	4
Norton County	0	4	0	4
Osage County	4	2	0	6
Osborne County	0	1	0	1
Ottawa County	0	1	0	1
Pawnee County	0	0	0	0

COUNTY	KDADS	DCF	KDHE	TOTAL
Phillips County	0	0	0	0
Pottawatomie County	3	4	0	7
Pratt County	3	5	0	8
Rawlins County	0	0	0	0
Reno County	2	4	0	6
Republic County	0	1	0	1
Rice County	0	5	0	5
Riley County	0	5	0	5
Rooks County	1	0	0	1
Rush County	0	0	0	0
Russell County	0	0	0	0
Saline County	1	7	0	8
Scott County	0	1	0	1
Sedgwick County	16	77	3	96
Seward County	0	5	0	5
Shawnee County	10	80	0	90
Sheridan County	0	0	0	0
Sherman County	0	0	0	0
Smith County	0	1	0	1
Stafford County	0	2	0	2
Stanton County	0	0	0	0
Stevens County	0	0	0	0
Sumner County	0	2	0	2
Thomas County	0	1	0	1
Trego County	0	0	0	0

COUNTY	KDADS	DCF	KDHE	TOTAL
<b>Wabaunsee County</b>	1	2	0	3
<b>Wallace County</b>	0	0	0	0
<b>Washington County</b>	0	2	0	2
<b>Wichita County</b>	0	0	0	0
<b>Wilson County</b>	0	2	0	2
<b>Woodson County</b>	0	0	0	0
<b>Wyandotte County</b>	8	21	0	29
<b>TOTALS</b>	114	457	5	576

## 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, while 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, if not prosecution. For example:

- KDADS finding issued in March 2016 for abuse, neglect and exploitation of a resident by a Certified Nurse Aide (CNA). The substantiated incident occurred on July 24, 2015, where the CNA video recorded a resident in complete undress who had rolled halfway out of the bed. The CNA pulled out her phone and began recording the resident while laughing. Another staff member witnessed this behavior and asked the CNA to stop filming, to which she eventually complied. Upon standard follow up by the unit, it became evident this incident had not been reported to law enforcement by the facility or by KDADS. The unit contacted KDADS in November 2016, which resulted in KDADS making a law enforcement referral to the local authorities. As a result of the unit's intervention, a police report was completed, and forwarded to the county attorney. The county attorney did not pursue charges; however, he or she was at least given the opportunity to review the matter to make that determination.
- In March 2018, the unit received a call from a victim alleging fiduciary abuse. The victim incorrectly believed our office was handling his investigation. This is a common misunderstanding among victims, especially where multiple agencies may be involved with their case. Unit staff contacted local law enforcement inquiring on the status of their investigation. The local detective assigned to the case, informed the unit he had been advised from APS they would take care of "everything." The detective was under the impression that APS was going to pursue the matter criminally. Unit staff explained the role of APS and the fact that their investigation is civil and does not address criminality. Law enforcement then conducted their own investigation and forwarded the case to the county attorney. The county attorney requested the attorney general provide prosecution. The case was accepted and on April 26, 2018, the perpetrator was charged with one count of mistreatment of a dependent adult.
- KDADS not only investigates reports of abuse, neglect, and exploitation, but they also maintain the Certified Nurse Aide (CNA) registry pursuant to K.S.A. 39-936. Federal law holds that a nursing facility must not employ individuals who have a finding on a state registry concerning abuse, neglect, and exploitation. Once KDADS finds an individual has committed abuse, neglect, or exploitation, it is imperative that KDADS then places the name of the individual on the registry. During the reporting period, the unit identified numerous cases where a finding had been made by KDADS that an individual had committed abuse, neglect or exploitation, but the individual's name had not been placed on the registry. In each of those cases the unit followed up with KDADS to ensure the individual's name was added to the registry.
- During the course of the reporting period, the unit continued to meet with DCF, KDADS and KDHE in order to maintain a close working relationship. The unit had a regularly scheduled meeting with KDHE on routine procedures and other agenda items. During the course of the meeting the unit inquired with KDHE legal if any substantial findings had been issued during the course of the reporting period as the unit had no record of receiving any findings at that point. The following day the unit received five findings KDHE had issued. Thanks to these collaborative efforts, the unit was able to obtain these findings. It is unknown if the findings would have been received otherwise.
- A substantiated finding of abuse and neglect from KDADS came to the unit early April 2018. The narrative synopsis indicated the resident of a long term care facility was slapped by the perpetrator in April 2017. Within

the narrative it made no mention of a report being made to law enforcement by the facility. KDADS provides a cover page when they forward findings to the unit, and this cover page also indicated a report was not made to law enforcement. A phone call was made to KDADS in regards to their processes, as there was no law enforcement referral found for this specific finding. It was learned one division of KDADS sends the law enforcement referrals, and KDADS legal is responsible for sending the findings. KDADS informed the unit its systems only maintain documentation on these law enforcement notifications for a year. The unit has found some of the findings received from KDADS are occasionally on an incident that occurred more than one year prior. For the unit to obtain any answers on whether notification was sent to law enforcement at the onset of the investigation would be impossible if the KDADS system purges information after one year. The unit will continue to communicate with KDADS about possible solutions to this problem.

- Normal follow up on a law enforcement referral provided to the unit by DCF indicated there were actually two law enforcement agencies involved. Original notice was sent to one law enforcement agency before it was discovered the crimes had occurred in a different jurisdiction. Upon follow up with the second law enforcement agency, where the crime occurred, they indicated they had received the report but no further action had been taken due to an oversight on their part. Law enforcement thanked the unit for bringing it back to their attention. A report number was provided, and the detective indicated he was going to follow up with DCF. This case may not have had a second look had the unit not followed up accordingly. The unit continues to monitor this case for final disposition.

# Investigations and Prosecutions

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## ELDER AND DEPENDENT ADULT ABUSE

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One of the most important changes of the July 1, 2016, legislative amendments is the unit's 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 investigative and prosecutorial capacity was added within the division to process cases. Once these resources were obtained, 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, or powers of attorney. This can be very time-consuming and taxing on law enforcement agencies, especially small agencies.

In its second year prosecuting crimes involving elder and dependent adult abuse, the attorney general's Fraud and Abuse Litigation Division was involved in the litigation of 12 cases. Courts have ordered \$174,953.82 in restitution and \$1,500 in fines related to cases during the past fiscal year. Law enforcement agents located within FALD also participated in investigating 61 cases related to elder and dependent abuse as well as general white collar fraud.

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## SECURITIES FRAUD

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In 1911, the Kansas legislature passed the nation's first "blue sky" statute — a state law designed to provide for state regulation over securities and to protect the public from fraudulent investment schemes. Kansas' blue sky statutes are now codified as the Kansas Uniform Securities Act (K.S.A. 17-12a101 *et seq.*). As of July 1, 2017, the Office of the Attorney General maintains prosecutorial authority for criminal violations of Kansas's securities laws while the Office of the Kansas Securities Commissioner is responsible for investigation pursuant to K.S.A. 17-12a508 and K.S.A. 75-767.

FALD, in cooperation with the Office of the Kansas Securities Commissioner, prosecutes a wide variety of securities- and investment-related crimes. Many of these crimes fall under the category of "investment fraud," such as intentionally failing to disclose relevant information to potential investors, setting up a Ponzi scheme, offering promissory notes in exchange for fictitious investment deals, or purposefully misleading the public about an investment's safety. FALD also prosecutes a variety of "registration crimes," such as failing to properly register a security with the Securities Commissioner or selling securities without a state license.

In its first year prosecuting securities crimes, the attorney general's Fraud and Abuse Litigation Division was involved in the litigation of nine cases. Courts have ordered \$891,150 in restitution and \$5,000 in fines related to these cases during the past fiscal year.

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## INSURANCE FRAUD

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The Fraud and Abuse Litigation Division also prosecutes cases of insurance fraud. Pursuant to K.S.A. 75-767, the Kansas Insurance Department investigates complaints of insurance fraud and forwards the results of their investigations to the attorney general's office when criminal prosecution is warranted. The Fraud and Abuse Litigation Division files and prosecutes these cases.

The types of insurance fraud commonly prosecuted include staged accident claims, false bodily injury claims, and mysterious disappearance claims. In many staged accident claims, an individual is involved in a car accident, but does not have insurance for their vehicle. To obtain coverage for the accident, the individual purchases comprehensive coverage after the accident and falsely claims the accident occurred after the insurance was purchased. In false bodily injury claims, individuals forge medical records to support false claims that they have sustained injuries in a variety of accidents. Mysterious disappearance claims involve individuals falsely claiming they have lost insured personal property in an attempt to collect insurance proceeds for the property. The partnership between the attorney general's office and the Insurance Department continues to result in increased prosecution of these common types of insurance fraud.

In its first year prosecuting insurance crimes, the attorney general's Fraud and Abuse Litigation Division was involved in the litigation of seven cases. Courts have ordered \$500 in fines related to cases during the past fiscal year.

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## **TAX FRAUD**

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On March 13, 2018, the Office of the Attorney General and the Kansas Department of Revenue entered into a Memorandum of Understanding to build a partnership to prosecute cases investigated by the Kansas Department of Revenue's Office of Special Investigations. The Office of Special Investigations operates under statutory law enforcement authority granted by K.S.A. 75-5157, K.S.A. 79-3233, and K.S.A. 79-3611. The partnership formed by the Memorandum of Understanding ensures uniform, attentive, and specialized prosecution of fraud committed against the State of Kansas by holding accountable criminals who steal sales tax paid by their customers, use Kansas driver's license offices to commit identity theft, and inject unsafe and unsound vehicles into the economy through falsified title documentation. Kansas District and County Attorneys have been supportive of this anti-fraud initiative by allowing the attorney general's office to file and prosecute such cases in their jurisdiction.

In its first three months of prosecuting crimes referred from the Department of Revenue, the attorney general's Fraud and Abuse Litigation Division was involved in the litigation of three cases. None of these cases reached completion during the reporting period.

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## **GENERAL WHITE-COLLAR FRAUD**

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From the inception of FALD, the division has been involved in the prosecution of general white collar fraud. These crimes often involved theft from individual citizens, embezzlement of businesses, document fraud, or door to door sales fraud. These cases are referred to the division from either local jurisdictions or the Consumer Protection Division. Law enforcement agents in the division often assist local agencies in the investigation of these cases as well.

During the current reporting period, the attorney general's Fraud and Abuse Litigation Division was involved in the litigation of seven general white collar fraud cases. Courts have ordered \$30,077 in restitution related to cases during the past fiscal year.

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**CASE ACTIVITY**  
**JULY 1, 2017 TO JUNE 30, 2018**

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	<b>ANE</b>	<b>Insurance</b>	<b>Revenue</b>	<b>Securities</b>	<b>Other</b>
<b>Cases Pending</b>	12	7	3	9	7
<b>New Cases Filed</b>	9	7	3	3	2
<b>Cases Resulting in Conviction</b>	6	2	0	3	2
<b>Cases Resulting in Acquittal</b>	0	0	0	0	0
<b>Cases Dismissed</b>	0	0	0	0	3
<b>Convictions Resulting in Probation</b>	5	2	0	2	0
<b>Convictions Resulting in Incarceration</b>	0	0	0	1	2
<b>Convictions Pending Sentence</b>	1	0	0	1	0
<b>Cases Resulting in Diversion</b>	0	0	0	0	0

Note: Conviction and sentencing numbers may not be equal due to convictions which occurred in a previous fiscal year being sentenced during the current fiscal year.

## Education and Outreach

An important element of the ANE unit and the broader FALD is to participate in public outreach in an effort to educate the public, law enforcement, social workers, and prosecutors on crimes against elder and dependent adults. In June 2017, Kansas Attorney General Derek Schmidt was elected president of the National Association of Attorneys General (NAAG). As president, Attorney General Schmidt had the opportunity to frame a presidential initiative to focus the association's work during his term which ran through June 2018. The attorney general's presidential initiative was titled, "Protecting America's Seniors: Attorneys General United Against Elder Abuse." The purpose of the initiative was to work with attorneys general around the country to help all states gather expertise and build capacity to fight elder abuse, neglect and exploitation. The initiative culminated in April 2018 with a national summit on the subject that was hosted by the attorney general in Manhattan, Kansas. Members of the FALD staff attended this event, and Deputy Attorney General Steven Karrer spoke on one of the meeting's panels. The event was attended by attorneys general and staff members from around the country.

As part of the attorney general's initiative, FALD collaborated with the attorney general's Senior Consumer Protection Advisory Council (AGSPAC) to create trainings on elder abuse in specific areas such as physical abuse, fiduciary abuse, sexual abuse, victim interaction, and cognitive impairment. AGSPAC, under the chairmanship of former Kansas Attorney General Robert Stephan, focuses on creating awareness of scams targeting the elderly and discusses means of education and prevention. The council is composed of individuals from various disciplines including, but not limited to, medicine, social services, law enforcement, legislative, and legal. During the current reporting period, the trainings created in partnership with AGSPAC were presented to 54 law enforcement officers in two live trainings in Olathe and Topeka in cooperation with the Kansas Law Enforcement Training Center (KLETC). An additional live presentation is planned during next year's reporting period. Also in the upcoming year, FALD is collaborating with Kansas Law Enforcement Training Center to make the trainings available online for law enforcement officers statewide.

In addition to the KLETC trainings FALD provided instruction for 18 other 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. Trainings have 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.

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. The continued contact also helps ensure the proper sharing of information between agencies as well as a collaborative understanding of the roles of each agency. The unit continues to educate on the legislative changes brought in 2016 and the effects they have each agency. This has helped to increase accurate reporting of law enforcement referrals, agency substantiations, and proper recording of findings to licensing agencies.

# Statutory Authority

## K.S.A. 75-723

### 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.**

(a) 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.

## 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.

## KDADS Glossary Terms of Abuse

**Abuse:** Any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to a resident, including:

1. Infliction of physical or mental injury;
2. Any sexual act with a resident when the resident does not consent or when the other person knows or should know that the resident 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 a resident;
4. Unreasonable use of a 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 furtherance of the health and safety of the resident or another resident;
5. A threat or menacing conduct directed toward a resident that results or might reasonably be expected to result in fear or emotional or mental distress to a resident;
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.

**Neglect:** The failure or omission by one's self, caretaker or another person with a duty to provide goods or services which are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness.

**Exploitation:** Misappropriation of resident 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 or false pretense by a caretaker or another person.







**Abuse, Neglect & Exploitation Unit**

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