

2019

Abuse, Neglect & Exploitation Unit Annual Report

Kansas Fiscal Year 2019
July 1, 2018 – June 30, 2019

www.ag.ks.gov



**KANSAS
ATTORNEY GENERAL**

DEREK SCHMIDT

Kansas Attorney General Derek Schmidt

January 13, 2020

Dear Fellow Kansans:

It is my pleasure to present the Fiscal Year 2019 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, Workers Compensation Division at the Department of Labor, 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,



Derek Schmidt
Kansas Attorney General



Executive Summary

The Abuse, Neglect, and Exploitation (ANE) Unit was established by statute in the summer of 2006, largely in response to the Kaufman case in Newton, Kansas. Arlan and Linda Kaufman operated a mental health group home for adults. Complaints of abuse had been made by residents over a period of years, but inadequacies in the State's system of reporting and investigation resulted in no sufficient response. The Disability Rights Center of Kansas eventually gained access to the home, which resulted in law enforcement investigation, arrest, prosecution, and federal conviction of the Kaufmans. During the criminal investigation and subsequent review, it became clear systemic failures led to the abuse going undetected. As a result, the Legislature created the ANE Unit, codified in K.S.A. 75-723.

A decade later, on July 1, 2016, the Legislature amended 75-723 to allow the Office of the Attorney General (OAG) to assist in the investigation, prosecution, and prevention of cases involving abuse, neglect, and exploitation. Because of the change in focus from monitoring and auditing toward law enforcement and prosecution, the attorney general relocated the ANE Unit from the Victim Services Division to a newly created Fraud and Abuse Litigation Division (FALD). The 2016 statutory amendments also focused the ANE Unit on cases involving abuse of elder and dependent adults rather than child abuse.

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

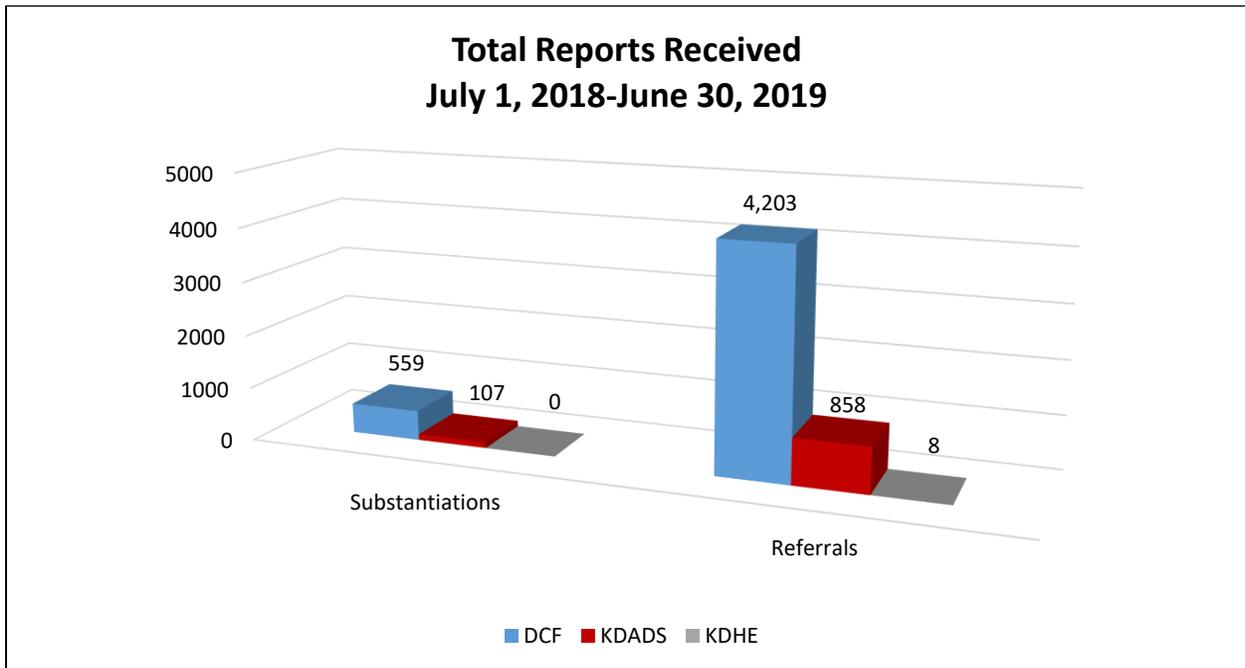
In addition to compiling and reporting statistical data, this annual report provides a broad overview of the ANE Unit's activities. The report focuses on the ways the Unit's work has resulted in intervention or investigation of the abuse, neglect, and exploitation of vulnerable adults. It also looks at ways the Unit has provided education and outreach to improve the protection of vulnerable adults. Finally, the report looks at goals the ANE Unit hopes to accomplish in the next fiscal year.

In addition to housing the ANE Unit, FALD provides education, investigation, and prosecution in other subject matter areas required or authorized by law. In 2017, Attorney General Schmidt supported enactment of Senate Bill 23, which relocated existing prosecution resources from the Office of the Securities Commissioner and the Kansas Insurance Department to the OAG. The Division also includes the assistant attorney general assigned by statute to direct the investigation and administrative prosecution of fraudulent or abusive acts in the Department of Labor's Workers Compensation Division. Together with the ANE Unit, these statutory duties form the foundation of FALD. In March 2018, the OAG entered into agreement, as authorized by law, with the Kansas Department of Revenue (KDOR) to assist in the enforcement and prosecution of criminal cases arising out of investigations conducted by KDOR's Office of Special Investigations. This process is coordinated case-by-case 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 elder 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.

FY 2019

The ANE Unit is required to review all cases forwarded by a state agency involving a confirmed (substantiated) finding of adult abuse. State agencies required to forward reports to the Unit are DCF, KDADS and KDHE. The ANE Unit is also required to review all referrals by these agencies to law enforcement agencies regarding allegations of abuse, neglect and or exploitation. During this reporting period, July 1, 2018, through June 30, 2019, the ANE Unit received a total of 5,735 reports of abuse, neglect or exploitation, the sum of law enforcement referrals and agency substantiations.

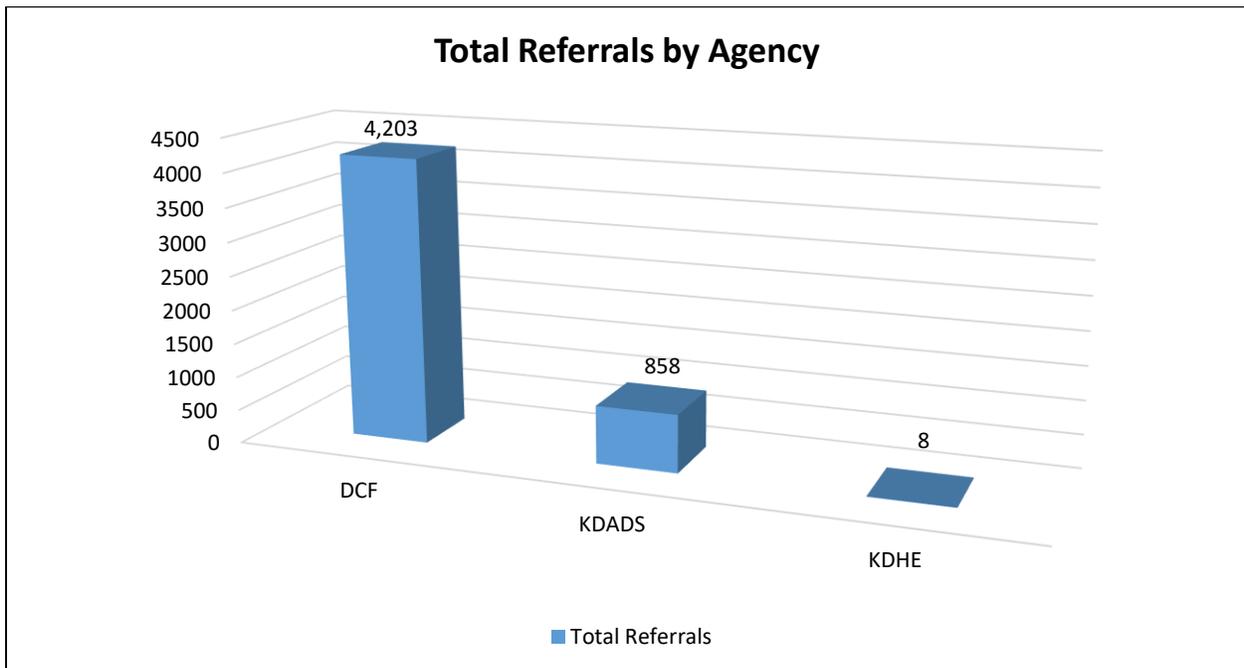
Of the 5,735 reports of abuse, neglect or exploitation from the above agencies, a majority were initial referrals to law enforcement agencies and the remaining were substantiated findings of abuse, neglect or exploitation.



Law Enforcement Referrals

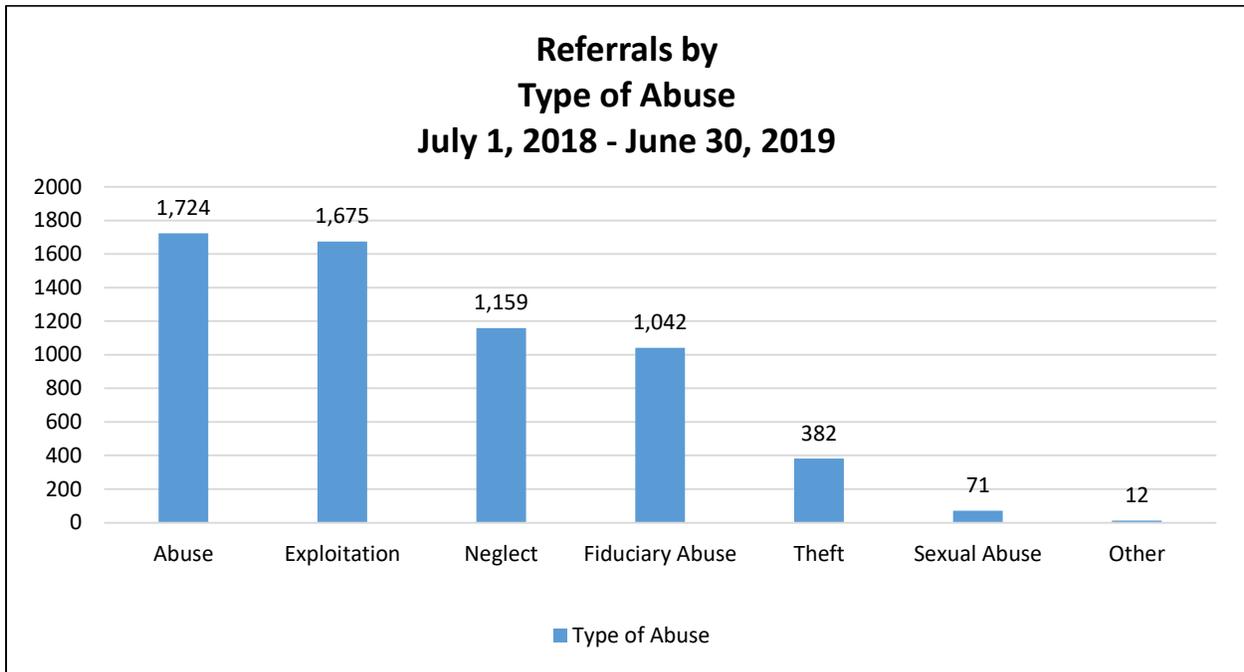
DCF, KDADS and KDHE are mandated by law to report possible criminal acts to law enforcement (K.S.A 39-1433 and K.S.A 39-1404). The reporting state agency is required to complete a written notification to law enforcement (initial referrals). These referrals can take place at any point during a state agency’s investigation but are most frequently made at the onset of an investigation. The written notification 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 Unit coordinates with law enforcement agencies statewide to ensure referrals have been received and further investigations, if appropriate, are taking place. The Unit continues to work with each law enforcement agency in building closer working relationships, as well as offering investigative and prosecution assistance when needed.



During this reporting period the ANE Unit received 5,069 law enforcement referrals. Each referral is assigned a type of allegation as designated by the ANE Unit. The ANE Unit’s designation is determined using the facts provided, statutory and regulatory authority, and agency policies and procedures. There are seven types designated as follows: abuse, neglect, exploitation, theft, fiduciary abuse, sexual abuse and other. Some referrals contain one or more type of abuse, which the ANE Unit counts as one referral but reports the total number of allegations.

Abuse was the most reported allegation in all of the referrals received by the ANE Unit at 1,724. The ANE Unit received 1,675 referrals for exploitation, 1,159 for neglect, 1,042 for fiduciary abuse, 382 for theft, and 71 for sexual abuse. The ANE Unit categorized 12 other referrals this year in cases where the allegation was not clear. The “other” category was created to account for cases in which a lack of detail in the complaint prevents categorizing the allegations. The only allegations investigated by DCF that do not require notification to the ANE Unit are those for self-neglect. These investigations usually do not involve criminal conduct; therefore, law enforcement notification is not required. A majority of the exploitation referrals the ANE Unit received were related to some form of financial exploitation or abuse.



REFERRAL SOURCES

DCF Adult Protective Services (APS) – Social workers investigate reports and provide protective services to adults, with their consent, who reside in the community, to 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

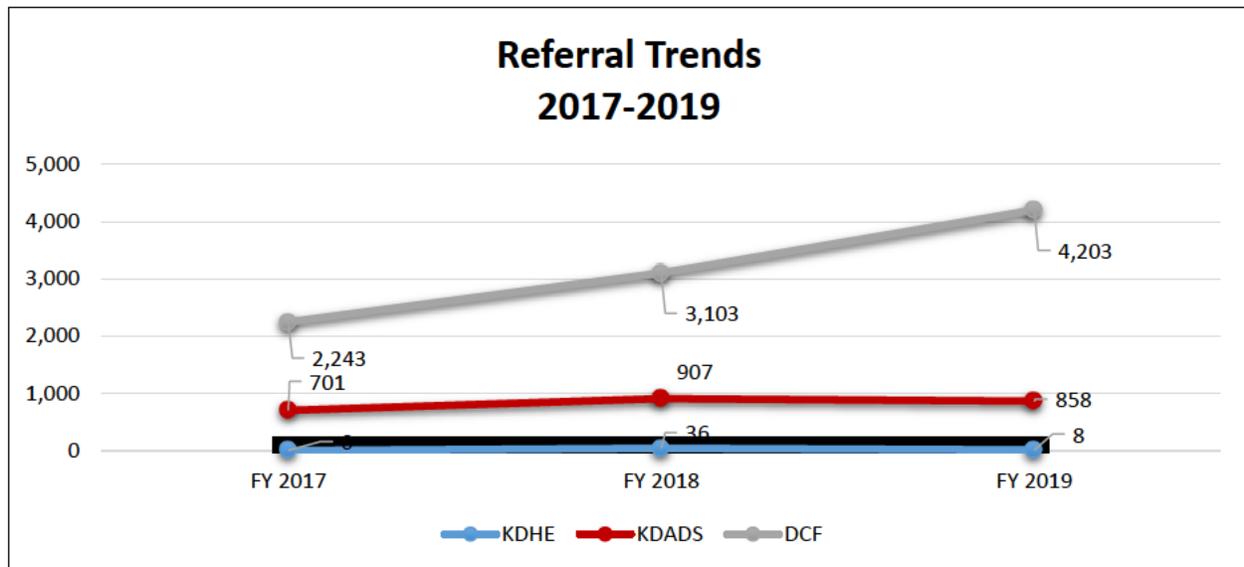
Kansas Department of Aging and Disability Services (KDADS) – Surveyors investigate reports of adult abuse, neglect and exploitation occurring in adult care homes (ACH). Examples: nursing home facilities, assisted living facilities, or board and care facilities. www.kdads.ks.gov

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 obtain assistance in planning for future long-term service and support needs. The ADRC website is 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

Over the past three fiscal years, the ANE Unit has seen a significant growth in the number of law enforcement referrals from both DCF and KDADS. With better education and training, the ANE Unit has worked with law enforcement and state agencies to expand the knowledge of identifying and reporting elder and dependend adult abuse, neglect and exploitation.

Law Enforcement Referrals, continued



LAW ENFORCEMENT REFERRAL BREAKDOWN BY COUNTY

The below chart shows law enforcement referrals received by the ANE Unit broken down by county. The county population shown is individuals age 18 and over. A zero number indicates the ANE Unit did not receive a law enforcement referral but does not necessarily indicate no reports were made.

County	Population 18+	KDADS	KDHE	DCF	TOTAL	RATE PER 1,000
Allen County	9,654	5	0	31	36	3.72
Anderson County	5,881	2	0	6	8	1.36
Atchison County	12,412	5	0	21	26	2.09
Barber County	3,448	0	0	8	8	2.32
Barton County	19,904	7	0	61	68	3.41
Bourbon County	10,889	2	0	33	35	3.21
Brown County	7,174	0	0	25	25	3.48
Butler County	49,769	40	0	139	179	3.59
Chase County	2,104	1	0	11	12	5.70
Chautauqua County	2,651	0	0	8	8	3.01
Cherokee County	15,405	1	0	40	41	2.66
Cheyenne County	2,093	0	0	5	5	2.38
Clark County	1,522	0	0	3	3	1.97
Clay County	6,114	1	0	28	29	4.74
Cloud County	6,777	7	0	36	43	6.34
Coffey County	6,437	2	0	30	32	4.97
Comanche County	1,333	0	0	2	2	1.50
Cowley County	26,899	10	0	78	88	3.27
Crawford County	30,529	12	2	89	103	3.37
Decatur County	2,313	0	0	2	2	.86
Dickinson County	14,278	2	0	54	56	3.92
Doniphan County	6,056	2	0	17	19	3.13
Douglas County	99,347	7	0	67	74	.74

Law Enforcement Referrals, continued

County	Population 18+	KDADS	KDHE	DCF	TOTAL	RATE PER 1,000
Edwards County	2,184	1	1	7	9	4.12
Elk County	1,965	0	0	6	6	3.05
Ellis County	22,512	2	0	47	49	2.17
Ellsworth County	5,059	0	0	12	12	2.37
Finney County	25,573	9	0	70	79	3.08
Ford County	23,675	14	0	55	69	2.91
Franklin County	19,541	4	0	57	61	3.12
Geary County	22,565	2	0	65	67	2.96
Gove County	1,986	0	0	2	2	1.00
Graham County	2,008	0	0	11	11	5.47
Grant County	5,079	3	0	1	4	.78
Gray County	4,284	1	0	3	4	.93
Greeley County	908	0	0	1	1	1.10
Greenwood County	4,738	0	0	8	8	1.68
Hamilton County	1,858	0	0	3	3	1.61
Harper County	4,134	2	0	16	18	4.35
Harvey County	25,968	10	0	104	114	4.39
Haskell County	2,872	0	0	3	3	1.04
Hodgeman County	1,405	0	0	2	2	1.42
Jackson County	9,972	6	0	12	18	1.80
Jefferson County	14,647	5	0	27	32	2.18
Jewell County	2,302	0	0	2	2	.86
Johnson County	451,912	206	2	307	515	1.13
Kearny County	2,801	2	0	6	8	2.85
Kingman County	5,706	1	0	14	15	2.62
Kiowa County	1,942	0	0	4	4	2.05
Labette County	15,172	3	0	68	71	4.67
Lane County	1,215	0	0	2	2	1.64
Leavenworth County	62,068	15	0	53	68	1.09
Lincoln County	2,344	0	0	10	10	4.26
Linn County	7,561	0	0	17	17	2.24
Logan County	2,159	4	0	8	12	5.55
Lyon County	25,967	5	0	69	74	2.84
Marion County	9,418	5	0	19	24	2.54
Marshall County	7,405	0	0	15	15	2.02
McPherson County	21,816	8	0	65	73	3.34
Meade County	3,085	0	0	4	4	1.29
Miami County	25,423	8	0	48	56	2.20
Mitchell County	4,717	0	0	13	13	2.75
Montgomery County	24,485	2	0	63	65	2.65
Morris County	4,389	0	0	8	8	1.82
Morton County	2,020	4	0	4	8	3.96
Nemaha County	7,516	8	1	16	25	3.32

Law Enforcement Referrals, continued

County	Population 18+	KDADS	KDHE	DCF	TOTAL	RATE PER 1,000
Neosho County	12,022	3	0	40	43	3.57
Ness County	2,221	2	0	3	5	2.25
Norton County	4,390	0	0	10	10	2.27
Osage County	12,217	2	0	41	43	3.51
Osborne County	2,765	1	0	4	5	1.80
Ottawa County	4,490	0	0	11	11	2.44
Pawnee County	5,483	3	0	17	20	3.64
Phillips County	4,118	1	0	12	13	3.15
Pottawatomie County	17,204	2	0	34	36	2.09
Pratt County	7,065	3	0	12	15	2.12
Rawlins County	1,982	0	0	5	5	2.52
Reno County	48,373	7	0	149	156	3.22
Republic County	3,696	2	0	4	6	1.62
Rice County	7,365	1	0	21	22	2.98
Riley County	61,422	9	0	88	97	1.57
Rooks County	3,896	2	0	7	9	2.31
Rush County	2,447	0	0	10	10	4.08
Russell County	5,413	1	0	25	26	4.80
Saline County	41,812	26	0	124	150	3.58
Scott County	3,578	2	0	9	11	3.07
Sedgwick County	381,688	162	2	517	681	1.78
Seward County	14,871	8	0	39	47	3.16
Shawnee County	135,549	102	0	558	660	4.86
Sheridan County	1,896	1	0	0	1	.52
Sherman County	4,496	0	0	19	19	4.22
Smith County	2,869	1	0	5	6	2.09
Stafford County	3,199	2	0	12	14	4.37
Stanton County	1,468	0	0	0	0	0
Stevens County	3,952	1	0	2	3	.75
Sumner County	17,329	10	0	28	38	2.19
Thomas County	5,909	2	0	8	10	1.69
Trego County	2,293	0	0	4	4	1.74
Wabaunsee County	5,287	13	0	9	22	4.16
Wallace County	1,125	0	0	3	3	2.66
Washington County	4,209	0	0	8	8	1.90
Wichita County	1,556	0	0	1	1	.64
Wilson County	6,577	3	0	17	20	3.04
Woodson County	2,511	0	0	7	7	2.78
Wyandotte County	119,273	50	0	219	269	2.25
TOTALS	2,205,361	858	8	4,203	5,069	2.29

Substantiations

During this reporting period, the ANE Unit received a total of 666 substantiated findings of abuse, neglect or exploitation (“substantiations”) from DCF and KDADS. This year, the Unit confirmed with KDHE that there were no substantiations made during FY 2019.

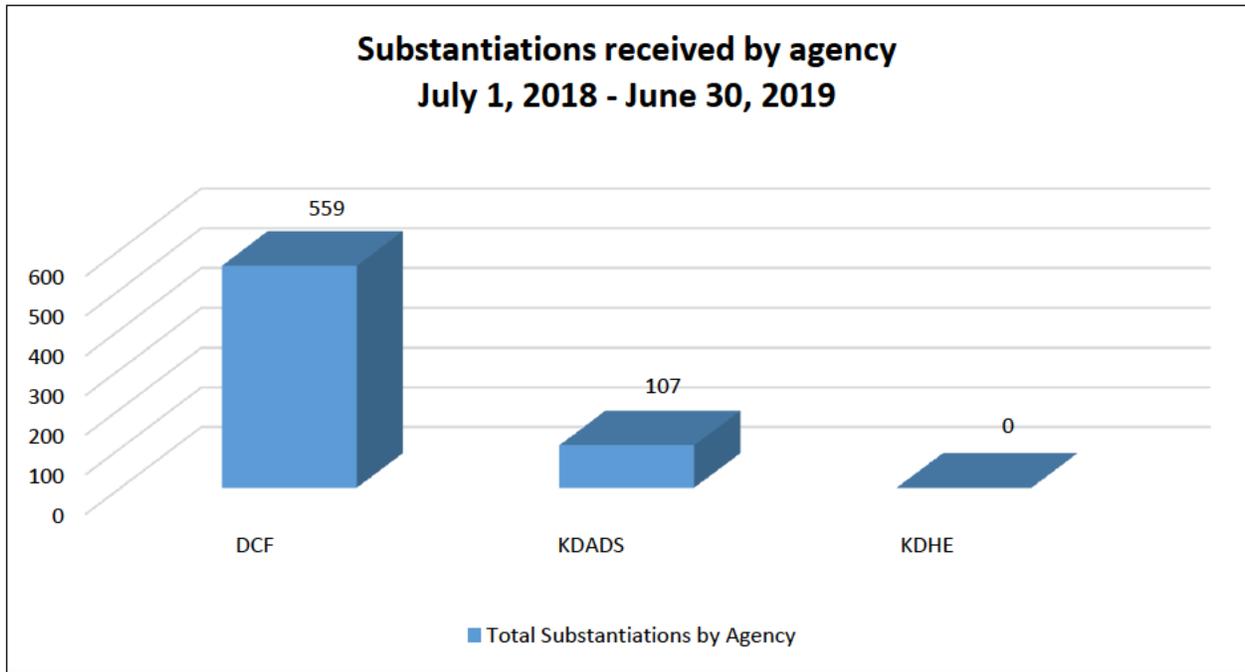
The purpose of a substantiation for DCF is to add the perpetrator to the statewide adult abuse registry. K.S.A. 65-6205 allows community services providers, mental health centers and independent living centers to perform employment background checks to determine whether a potential employee is listed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

KDADS’s purpose of a substantiation is statutorily the same as DCF. In addition, KDADS has an additional responsibility to maintain the certified nurse aide (CNA) registry. If KDADS substantiates abuse, the substantiation is recorded in both registries. The substantiations received by the ANE Unit from KDADS this reporting period have only been related to CNAs. Substantiations involving a Certified Nurse/Medication Aide, require a prohibition to be entered onto the CNA registry after 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.

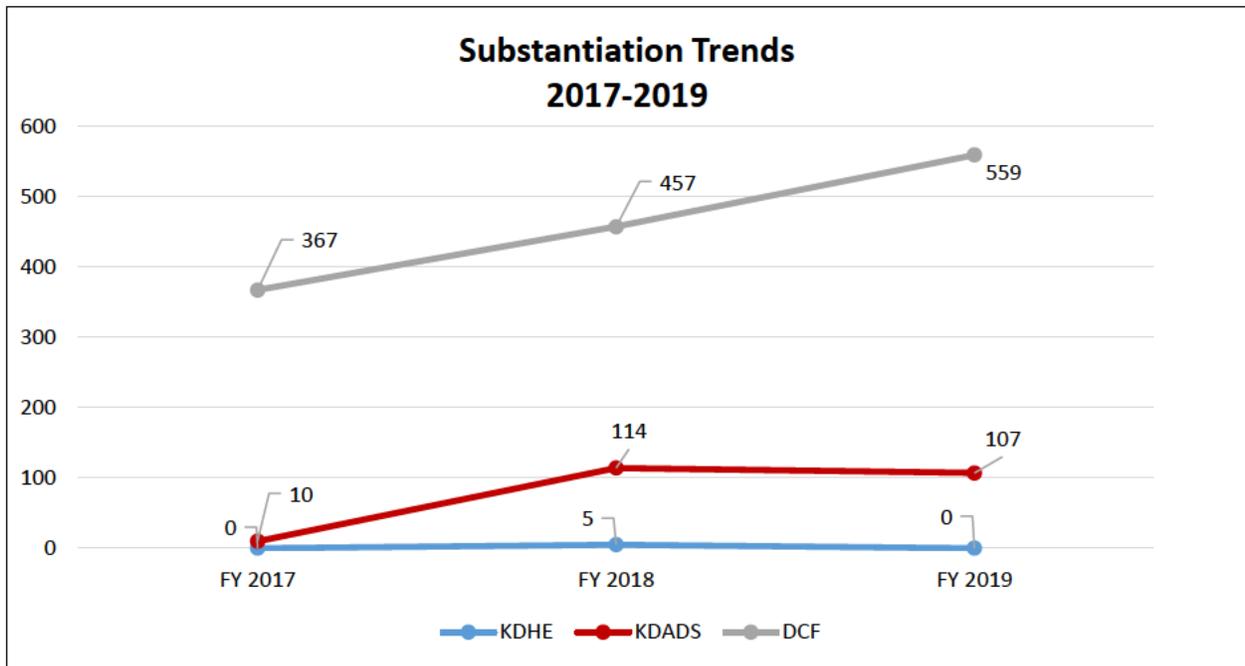
KDHE’s purpose of a substantiation is the same as KDADS and DCF. KDHE investigates reports of adult abuse, neglect and exploitation occurring within medical facilities and non-long term care facilities. Examples include hospitals, ambulatory surgery centers, home health agencies, hospice, rural health clinics, outpatient physical therapy and portable x-ray units. KDHE has oversight of state-licensed facilities that do not fall under KDADS. Once a substantiation is made by KDHE on a licensed perpetrator, the licensing agency is contacted to take action on the perpetrator’s license, such as the Kansas Board of Nursing, or KDADS for nurse aide registry prohibitions.

During this reporting period, the ANE Unit monitored the length of investigations from both KDADS, and DCF. The ANE Unit had concerns regarding length of time each agency was taking to conduct investigations related to abuse, neglect and exploitation. A normal investigation is calculated from the date the report is received by the agency to the date the substantiation is made. DCF has 30 working days per policy to complete their investigations; however, certain circumstances in DCF’s policy and procedure manual allow investigations to be held open for more than 30 days. The ANE Unit has been unable to confirm whether KDADS has policies limiting a timeframe for investigations. Of the substantiations received by the ANE Unit this year, DCF’s average investigation timeframe was 88 days, or 63 working days, and KDADS investigations average was 376 days, or 270 working days.

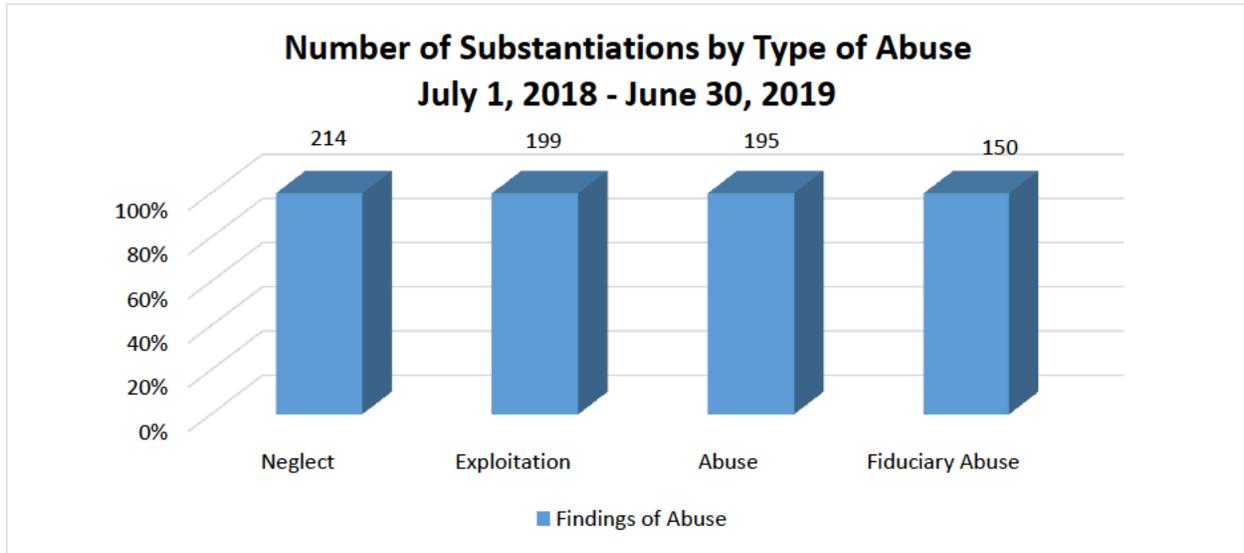
Substantiations, continued



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



There are four categories of substantiation used by DCF, KDADS and KDHE: abuse, neglect, exploitation, and fiduciary abuse. These vary significantly from the seven allegations assigned by the ANE Unit in the initial 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.” This is because the ANE Unit designates referral allegations, while the state agency’s legal determination is used to designate substantiated allegations.



SUBSTANTIATION BREAKDOWN BY COUNTY AND AGENCY

COUNTY	KDADS	DCF	KDHE	TOTAL
Allen County	0	3	0	3
Anderson County	0	0	0	0
Atchison County	0	2	0	2
Barber County	0	0	0	0
Barton County	1	2	0	3
Bourbon County	4	1	0	5
Brown County	0	1	0	1
Butler County	3	32	0	35
Chase County	0	2	0	2
Chautauqua County	0	0	0	0
Cherokee County	0	2	0	2
Cheyenne County	0	1	0	1
Clark County	0	0	0	0
Clay County	0	1	0	1
Cloud County	0	8	0	8
Coffey County	0	10	0	10
Comanche County	0	0	0	0
Cowley County	1	20	0	21
Crawford County	4	11	0	15
Decatur County	0	0	0	0
Dickinson County	5	7	0	12

Substantiations, continued

Doniphan County	0	1	0	1
Douglas County	4	6	0	10
Edwards County	1	0	0	1
Elk County	0	0	0	0
Ellis County	1	1	0	2
Ellsworth County	0	0	0	0
Finney County	0	2	0	2
Ford County	1	0	0	1
Franklin County	0	2	0	2
Geary County	0	9	0	9
Gove County	0	0	0	0
Graham County	0	0	0	0
Grant County	0	0	0	0
Gray County	0	0	0	0
Greeley County	0	0	0	0
Greenwood County	0	4	0	4
Hamilton County	0	0	0	0
Harper County	0	11	0	11
Harvey County	0	26	0	26
Haskell County	0	0	0	0
Hodgeman County	0	0	0	0
Jackson County	1	2	0	3
Jefferson County	0	5	0	5
Jewell County	0	0	0	0
Johnson County	16	52	0	68
Kearny County	1	0	0	1
Kingman County	0	1	0	1
Kiowa County	1	0	0	1
Labette County	0	6	0	6
Lane County	0	0	0	0
Leavenworth County	4	13	0	17
Lincoln County	0	0	0	0
Linn County	0	1	0	1
Logan County	0	0	0	0
Lyon County	0	4	0	4
Marion County	0	2	0	2
Marshall County	0	0	0	0
McPherson County	1	14	0	15
Meade County	0	0	0	0
Miami County	1	0	0	1
Mitchell County	0	1	0	1
Montgomery County	3	1	0	4
Morris County	0	0	0	0
Morton County	0	0	0	0

Substantiations, continued

Nemaha County	0	0	0	0
Neosho County	0	4	0	4
Ness County	0	0	0	0
Norton County	0	0	0	0
Osage County	0	6	0	6
Osborne County	0	0	0	0
Ottawa County	0	0	0	0
Pawnee County	0	0	0	0
Phillips County	0	0	0	0
Pottawatomie County	0	3	0	3
Pratt County	1	3	0	4
Rawlins County	0	0	0	0
Reno County	4	12	0	16
Republic County	3	0	0	3
Rice County	0	0	0	0
Riley County	9	12	0	21
Rooks County	0	0	0	0
Rush County	0	0	0	0
Russell County	1	0	0	1
Saline County	0	11	0	11
Scott County	0	0	0	0
Sedgwick County	17	92	0	109
Seward County	0	3	0	3
Shawnee County	7	66	0	73
Sheridan County	0	0	0	0
Sherman County	6	1	0	7
Smith County	0	1	0	1
Stafford County	0	0	0	0
Stanton County	0	0	0	0
Stevens County	0	0	0	0
Sumner County	1	8	0	9
Thomas County	1	0	0	1
Trego County	0	0	0	0
Wabaunsee County	0	1	0	1
Wallace County	0	0	0	0
Washington County	0	2	0	2
Wichita County	0	0	0	0
Wilson County	0	2	0	2
Woodson County	0	1	0	1
Wyandotte County	3	65	0	68
TOTALS	107	559	0	666

Investigations and Prosecutions

ELDER AND DEPENDENT ADULT ABUSE

One of the most important changes of the July 1, 2016, legislative amendments, is the ANE Unit's ability to assist in criminal investigations and prosecutions. To accommodate these changes, the ANE Unit was made part of the newly created Fraud and Abuse Litigation Division (FALD). Criminal investigation and prosecution capacity were added in FALD. Once these resources were obtained, FALD began receiving and accepting requests for assistance from law enforcement agencies and local prosecutors statewide.

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 a thorough understanding of the various legal relationships encountered, such as trusts, guardianships and powers of attorney. This can be very time consuming and taxing on law enforcement agencies, especially small agencies.

During the current reporting period, FALD was involved in the criminal litigation of 15 elder and dependent adult abuse cases. Courts ordered \$73,355.23 in restitution and \$1,600 in fines related to cases during the past fiscal year. Law enforcement agents located within FALD also participated in investigating 36 cases related to elder and dependent abuse as well as general white-collar fraud.

SECURITIES FRAUD

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 OAG maintains prosecution authority for criminal violations of Kansas's securities laws while the Office of the Kansas Securities Commissioner is responsible for investigations pursuant to K.S.A. 17-12a508 and 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.

During the current reporting period, FALD was involved in the litigation of 13 securities fraud cases. Courts have ordered \$1,019,900* in restitution related to cases during the past fiscal year.

*\$845,900 of this restitution was ordered jointly and severally with a defendant whose restitution had been ordered and reported in previous fiscal year.

INSURANCE FRAUD

The FALD 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 OAG when criminal prosecution is warranted. FALD 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 the 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 OAG and the Insurance Department continues to result in increased prosecution of these common types of insurance fraud.

During the current reporting period, FALD was involved in the litigation of 14 insurance fraud cases. Courts have ordered \$1,000 in fines related to cases during the past fiscal year.

TAX FRAUD

On March 13, 2018, the OAG and the Kansas Department of Revenue (KDOR) entered into a Memorandum of Understanding to build a partnership to prosecute cases investigated by KDOR'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 cooperative 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, inject unsafe and unsound vehicles into the economy through falsified title documentation, or commit other crimes within KDOR jurisdiction. Kansas district and county attorneys have supported this anti-fraud initiative by allowing the OAG to file and prosecute such cases in their jurisdictions.

In its first full year of prosecuting crimes referred by KDOR, FALD was involved in the litigation of 28 cases. Courts have ordered \$19,952.13 in restitution and \$10,850 in fines related to cases during the past fiscal year.

WORKERS COMPENSATION FRAUD

The attorney general is required by K.S.A. 44-5,124 to appoint an assistant attorney general (AAG), with the approval of the secretary of labor, to work within the Division of Workers Compensation at the Kansas Department of Labor. This AAG is part of FALD and reports to the deputy of the division. The AAG is responsible for directing and assisting in the investigation and administrative prosecution of alleged fraudulent or abusive acts or practices as outlined in K.S.A. 44-5,120 through K.S.A. 44-5,122 and amendments thereto.

During the current reporting period, FALD was involved in collecting, \$2,175 in restitution and \$193,626.18 in fines and fees related to administrative workers compensation cases.

GENERAL WHITE COLLAR FRAUD

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

During the current reporting period, FALD was involved in the litigation of four general white-collar fraud cases. Courts have ordered \$2,001 in restitution related to cases during the past fiscal year.

CASE ACTIVITY JULY 1, 2018 TO JUNE 30, 2019

	ANE	Insurance	Revenue	Securities	Other
Cases Pending	15	14	28	13	4
New Cases Filed	5	7	25	6	1
Cases Resulting in Conviction	7	1	10	2	1
Cases Resulting in Acquittal	0	0	0	0	0
Cases Dismissed	0	1	0	3	0
Convictions Resulting in Probation	4	1	9	3	0
Convictions Resulting in Incarceration	0	0	1	0	1
Convictions Pending Sentence	3	0	0	0	0
Cases Resulting in Diversion	0	3	1	0	1

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.

RECOVERIES

	Restitution	Fines and Fees
Elder and Dependent Adult Abuse	\$73,355.23	\$1,600.00
Securities Fraud	\$174,000.00 [†]	\$0.00
Insurance Fraud	\$0.00	\$1,000.00
Revenue	\$19,952.13	\$10,850.00
Workers Compensation	\$2,175.00	\$193,626.18
Other	\$2,001.00	\$0.00
Subtotals	\$271,483.36	\$207,076.18
Total Restitution, Penalties and Fees		\$478,559.54

[†] This figure and the recovery totals do not include the \$845,900 of restitution that was ordered jointly and severally with a defendant whose restitution had been ordered and reported in previous fiscal year.

Education and Outreach

FALD provided instruction for 16 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 Financial Abuse Specialist Team (FAST) meetings. The Unit has been able to work closer with law enforcement agencies within Johnson County not only to obtain information on referrals the ANE 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 FALD develop strategies in providing a Multi-Disciplinary Team (MDT) 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 ANE 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 ANE Unit continues to educate on recent legislative changes and the effects they have on each agency. This has helped to increase accurate reporting of law enforcement referrals, agency substantiations, and proper recording of findings to licensing agencies.

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:

- A substantiation for neglect was received by the Unit at the end of 2017. The neglect resulted in the victim dying. During the current reporting period, the Unit continued to monitor the case and in following up with the investigating law enforcement agency learned the victim's death was a result of starvation. The investigation had been turned over to their county attorney's office recommending murder charges for the victim's wife. Further follow up with the county attorney's office resulted in FALD becoming involved at the request of the county attorney. Charges were filed for murder in the second degree and mistreatment of a dependent adult. Thanks to collaboration between FALD and the county attorney's office, the suspect was found guilty on both counts, and the suspect was sentenced to 125 months in the Kansas Department of Corrections.
- The Unit received a law enforcement referral from DCF on an incident that occurred within a facility where a victim had become ill, possibly from use of a vape pipe containing methamphetamine. The report indicated that a second victim who had become ill was unable to be revived and later died. The Unit did not show a referral had been received on this second victim. The Unit inquired with DCF as to whether there was another report assigned for this second victim. DCF advised that a case should have been opened on the deceased resident. They indicated their report was screened out in error according to their internal policy. The Unit did receive a referral on the deceased victim, and appropriate follow up was done with the investigating law enforcement agency. The Unit continues to work with DCF on ensuring their processes and policies for screening criteria are followed.
- In October of 2018 the Unit followed up with law enforcement on a substantiation. Law enforcement indicated they were not investigating because they did not believe the crimes occurred in their county. The victim was residing in one county, while the perpetrator was spending the victim's money and living in a different county. The Unit followed up with law enforcement in the perpetrator's county and they agreed to assign it to one of their detectives for further investigation. This same detective later reached out to the Unit for assistance resulting in the Unit now being involved in the investigation and prosecution of this case. This investigation required the collaborative effort among several law enforcement agencies, the OAG, two county attorneys' offices and DCF.
- Proper follow up with a county attorney's office on a fiduciary abuse substantiation revealed the case was still under review with their office. Two weeks after the original phone call was made, the county attorney reached out to the Unit requesting assistance in prosecuting this case. The case was filed in fall 2018 for two suspects each being charged with one count of mistreatment of a dependent adult. Both suspects pleaded no contest, were found guilty and sentenced.
- A law enforcement referral had come to the Unit at the end of the last reporting period for fiduciary abuse of an elder. Follow up with local law enforcement and the county resulted in the Unit taking the

Unit Interventions, continued

case for investigation and prosecution. The suspect was charged in October 2018 with one count of mistreatment of an elder person. The prosecution case is still ongoing at the time of this report.

- According to a finding issued by KDADS that the Unit received in December 2018 for an incident that occurred in a long term care facility in October 2017, a CNA was terminated for restraining a resident to a shower chair with a gait belt, which was not a part of the resident's care plan. During KDADS investigation this same CNA obtained employment at a second facility. Approximately eight months after the incident at the first facility, the CNA was substantiated again for abuse to two other residents. It is extremely concerning to the Unit upon review of this finding that a licensed individual was terminated from one facility and before any prohibition was placed on the nurse aide registry, the CNA was able to gain access to other dependent adults, resulting in further abuse.
- The Unit received a substantiated finding of neglect from APS that indicated the substantiated perpetrator also worked at a nursing home. Further investigation revealed the perpetrator was licensed as a CNA, certified medication aide (CMA), and certified home health aide (HHA) through KDADS and that DCF had forwarded their substantiation to KDADS pursuant to statute. The Unit inquired with KDADS as to whether they had received any reports on this individual. KDADS indicated this CNA/CMA/HHA did not have any complaints attached to their name at that time. KDADS stated because the alleged abuse, neglect or exploitation happened outside of an adult care home they would not be investigating. Four months after the report was received from DCF, the Unit received a law enforcement referral from KDADS indicating that this same perpetrator took a client's medication at the facility and admitted to swallowing it. A follow up email was sent to KDADS stating pursuant to K.S.A 39-1433(b) if DCF substantiates abuse, neglect or exploitation they are required to report that to KDADS if the person they substantiate on holds a license as a CNA/CMA. The Unit inquired with KDADS as to whether an investigation had been conducted and requested copies of the investigation and findings. To this date the Unit has received no response from KDADS.
- A group of KDADS findings from previous years was reviewed during this reporting period. The Unit checked to ensure prohibited individuals were listed on the Nurse Aide registry. The Unit found four instances where prohibitions had not been entered on the Nurse Aide Registry. The Unit inquired with KDADS on these specific cases and discovered that two of them had resulted in settlement agreements being entered between KDADS and the CNA. Settlement agreements allow the CNA to complete a variety of trainings or other requirements to avoid their name being placed on the prohibition list. As a result of our inquiry those two CNAs were placed on the CNA registry. Further follow-up was done inquiring if there had been any further background checks on these individuals since the date of the findings. KDADS indicated no further background checks had been done and no further complaints had been received on either of the CNAs.

Significant Cases

State v. Jana Paczkowski – Pottawatomie County

Paczkowski served as the trustee of a special needs trust for a dependent adult. While acting as trustee, Paczkowski used funds from the special needs trust for her own benefit rather than for the benefit of the dependent adult. Paczkowski's conduct violated her duty under the Kansas Uniform Trust Code to administer the trust solely in the interests of its beneficiary. Paczkowski requested a jury trial, and was convicted by a Pottawatomie County jury. At sentencing, Paczkowski was ordered to pay \$11,100.00 in restitution to the dependent adult.

State v. Nichole Burns – Ellis County

Burns cared for her father who was an elder adult. Burns's father was prescribed fentanyl patches to manage his pain. Burns would remove her father's patches, remove the fentanyl from the patch, consume the removed fentanyl, and reapply the patch to her father. Burns' father was later admitted to the emergency room in severe pain because he was not receiving his prescribed medication from the used patch. The OAG charged Burns with mistreatment of an elder person for inflicting physical injury. Burns pleaded guilty as charged to mistreatment of an elder person and possession of an opiate, opium, narcotic or certain stimulant.

State v. Lori Mayfield – Ellsworth County

Mayfield served as conservator for her daughter who was a dependent adult. Mayfield used her daughter's assets to purchase a vehicle for herself instead of using the assets for her daughter's benefit. Mayfield requested a jury trial, and was convicted by an Ellsworth County jury.

Note: The District Court denied restitution at sentencing. The defendant has appealed her conviction, while our office is pursuing a cross-appeal on this issue of restitution.

State v. Matthew and Crystal Hayes – Ellis County

Matthew and Crystal Hayes served as power of attorney for their mother/mother-in-law who was an elder person. While acting as powers of attorney, the defendants used their mother/mother-in-law's financial assets for their own benefit. By misusing these assets, the defendants violated their duty under the Kansas Power of Attorney Act to act in their mother/mother-in-law's best interests. Matthew and Crystal both entered pleas (Mathew pleaded guilty and Crystal pleaded no contest). Between the two plea agreements, the defendants agreed to pay a total of \$57,047.48 in restitution.

State v. Carol Burris – Coffey County

Carol Burris had assumed the caretaker role for her husband who was ill. She failed to provide for his basic needs which culminated in his death. She was charged with second degree reckless murder and mistreatment of a dependent adult. A Coffey County jury convicted her of both counts. She was sentenced to 117 months for second-degree murder and eight months for mistreatment of a dependent adult. The sentences were ordered to be run consecutively for a total of 125 months to be served in the Kansas Department of Corrections.

Note: The defendant has appealed her conviction.

Looking Forward...

The ANE Unit and FALD will continue to focus on and expand investigation and prosecution of criminal cases involving fraud and abuse. This includes cases not only involving abuse, neglect and exploitation of elders, but also cases involving, tax, securities and insurance fraud. This will allow FALD to not only prosecute and investigate cases, but also be a state and national resource for other prosecutors and law enforcement.

Over the coming year, FALD and the ANE Unit will continue to conduct education and public outreach. In order to meet this goal, Attorney General Schmidt has established the Elder and Dependent Adult Abuse Prevention Council. This council replaces a less-formal advisory group that had met for several years. The council was created through the attorney general's regulatory authority under Kansas law to advise and make recommendations to the ANE Unit. Attorney General Schmidt has appointed the following members to serve on the council:

- Steven Karrer, Deputy Attorney General, Fraud and Abuse Litigation Division
- Jackie Williams, Deputy Attorney General, Medicaid Fraud and Abuse Division
- Kate Carter, Deputy Attorney General, Consumer Protection and Antitrust Division
- Niomi Burget, Consumer Outreach and Public Affairs Coordinator, Attorney General's Office
- Dawne Stevenson, Director of Survey and Certification, KDADS
- Chrisy Khatib, Deputy Director of Prevention and Protection Services, DCF
- Ashley Goss, Deputy Secretary of Public Health, KDHE
- Kathy Greenlee, Former Assistant Secretary for Aging, U.S. Department of Health and Human Services
- Vanessa Riebli, Assistant District Attorney, Johnson County District Attorney's Office
- Ruth Ritthaler, Chautauqua County Attorney
- Jacklyn Zickel, Detective, Overland Park Police Department
- Dr. Stephen Benson, Licensed Clinical Psychologist
- Kathy Taylor, Executive Vice President and General Counsel, Kansas Bankers Association
- Mary Tritsch, Associate State Director, AARP
- Mitzi McFatrach, Executive Director, Kansas Advocates for Better Care

The council's duties include establishing working groups on specific topics, developing local or regional multi-disciplinary teams to assist local authorities in investigating abuse and neglect, as well as coordinating and engaging in education and outreach activities including creating a publicly available clearinghouse of information on elder and dependent adult abuse prevention. The council had its first meeting in September 2019.

Finally, the ANE Unit and FALD will put considerable resources and attention to assisting state agencies to interpret and comply with statutes regarding the investigation and reporting of elder abuse. This will include focusing on insuring that individuals who are substantiated by a State agency for abuse, neglect, and exploitation are placed on all appropriate registries, including professional registers such as the CNA and nurse registries. FALD will also continue the efforts on both state and local levels to ensure a multi-disciplinary team approach to investigations of abuse neglect and exploitation. FALD will focus these efforts on attempting to expand the MDT approach to rural areas.

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.

Statutory Authority, continued

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.

Statutory Authority, continued

(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.



Fraud & Abuse Litigation Division
Abuse, Neglect & Exploitation Unit
120 SW 10th Ave, 2nd Floor
Topeka, KS 66612-1597
(785) 296-5894
(785) 296-6795 (Fax)
www.ag.ks.gov