

2020

Abuse, Neglect & Exploitation Unit Annual Report

Kansas Fiscal Year 2020
July 1, 2019 – June 30, 2020

www.ag.ks.gov



**KANSAS
ATTORNEY GENERAL**

DEREK SCHMIDT

Kansas Attorney General Derek Schmidt

January 11, 2021

Dear Fellow Kansans:

It is my pleasure to present the Fiscal Year 2020 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).

After significant reorganization and legislative enactments in recent years, the Fraud and Abuse Litigation Division (FALD) was created July 1, 2016. It houses the ANE Unit and also handles the work of the Office of the Attorney General in investigating and prosecuting cases in partnership with the Department of Insurance, Office of the Securities Commissioner, and Department of Revenue. FALD also works closely with the Consumer Protection Division and the Medicaid Fraud and Abuse Division in the Office of the Attorney General. It has additional responsibilities related to Workers Compensation fraud and the Office of the State Bank Commissioner. Placing these various anti-fraud and anti-abuse responsibilities together in a single division has helped build more-robust capacity and strengthened the state's response to criminal abuse, neglect and exploitation of vulnerable adults.

Therefore, this report provides information about the overall work of the FALD in Fiscal Year 2020 as well as the statutorily required report of the ANE Unit. Overall, the ANE Unit tracked a total of 5,200 referrals to law enforcement agencies throughout the state from three designated state agencies that suspected criminal abuse, neglect or exploitation of vulnerable adults. Those three state agencies also reported to the FALD a total of 672 substantiated cases of abuse, neglect or exploitation of vulnerable adults. While most criminal cases in Kansas are prosecuted by local authorities, FALD attorneys directly prosecuted 24 criminal cases resulting in conviction and six others resulting in diversion.

The FALD also increased its focus on building capacity statewide to investigate and prosecute cases of abuse, neglect and exploitation of vulnerable adults. It provided regional trainings before the COVID-19 pandemic, and a new partnership with the Kansas Law Enforcement Training Center was launched to provide virtual trainings on these investigations to law enforcement statewide.

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

Best wishes,



Derek Schmidt
Kansas Attorney General



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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).

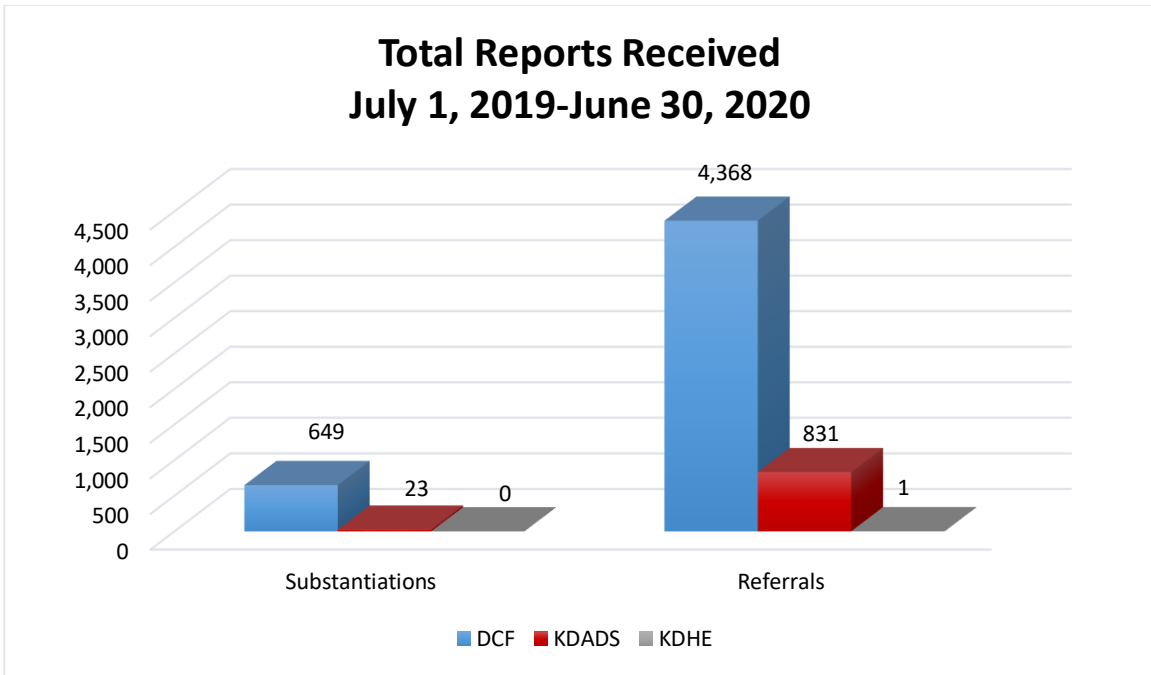
In addition to compiling and reporting statistical data, this annual report provides a broad overview of the ANE Unit's activities. The report focuses on the ways the Unit's work has resulted in intervention or investigation of the abuse, neglect, and exploitation of vulnerable adults. It also looks 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 2020 Overview

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, 2019 through June 30, 2020, the ANE Unit received a total of 5,872 reports of abuse, neglect or exploitation, the sum of law enforcement referrals and agency substantiations.

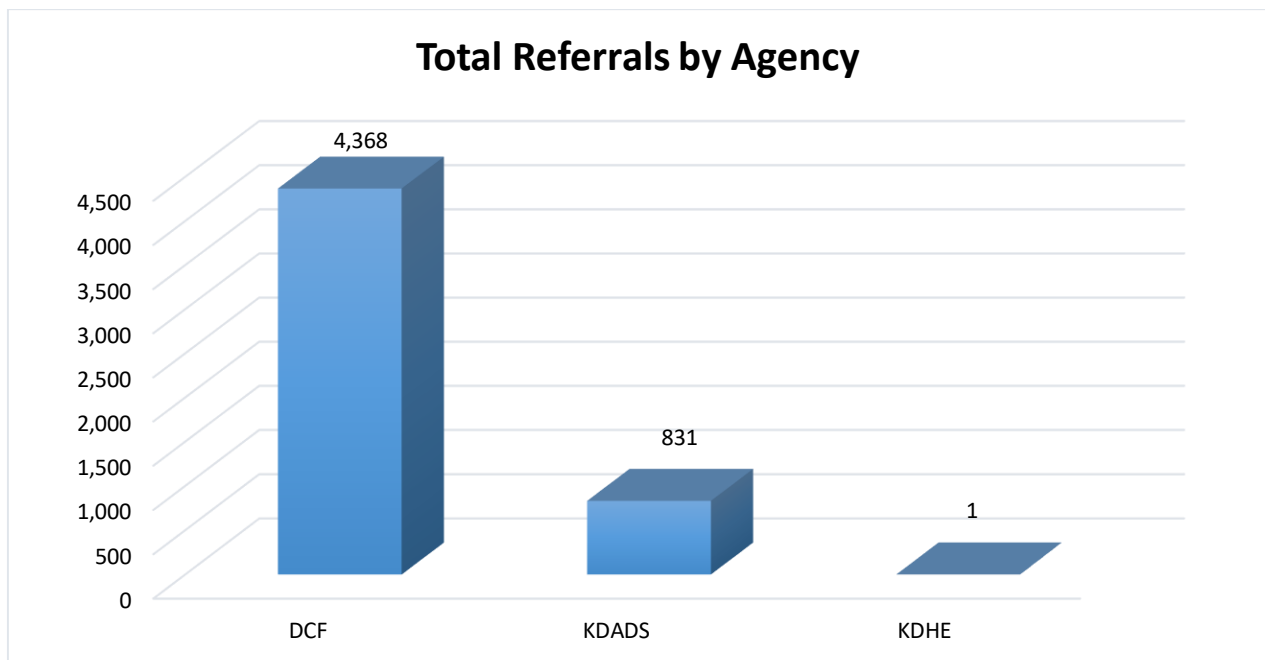
Of the 5,872 reports of abuse, neglect or exploitation from the above agencies a majority were initial referrals to law enforcement agencies and the remaining were substantiated findings of abuse, neglect or exploitation.



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.

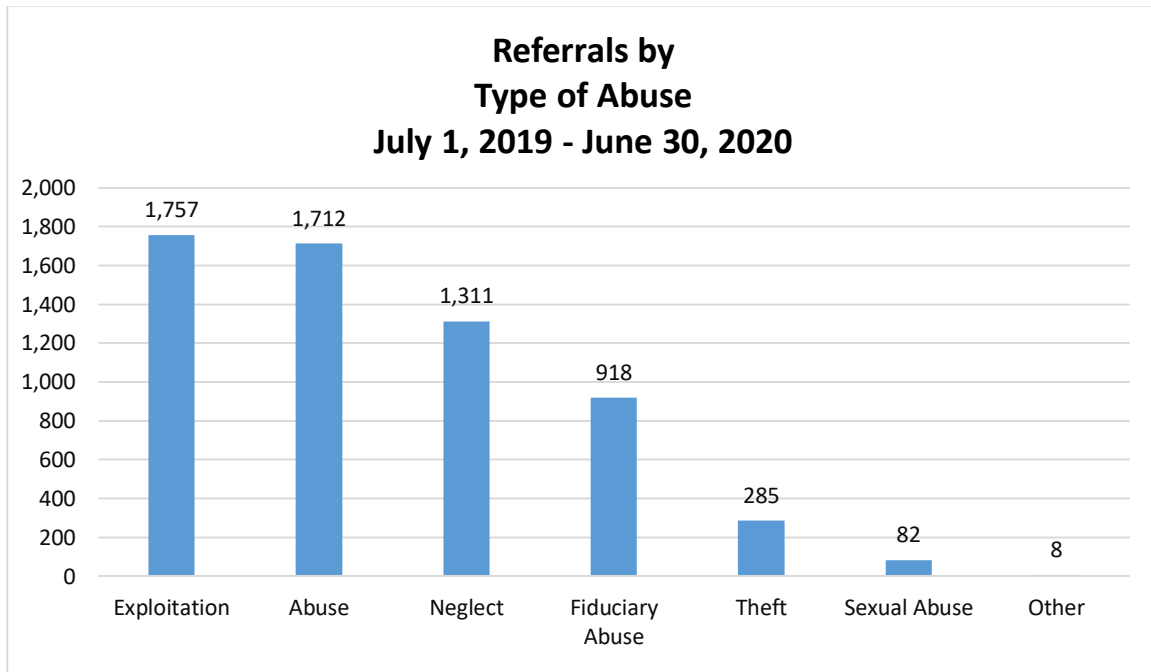
Over the past year, the Unit has worked closely with all 105 counties within the state. The Unit coordinates with law enforcement agencies statewide to ensure referrals have been received and further investigations, if appropriate, are taking place. The Unit continues to work with each law enforcement agency in building closer working relationships, as well as offering investigative and prosecution assistance when needed.



During this reporting period the unit received 5,200 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. 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 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 ANE Unit at 1,757. The ANE Unit received 1,712 abuse referrals, 1,311 for neglect, 918 for fiduciary abuse, 285 for theft, and 82 for sexual abuse. The ANE Unit categorized eight “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 most times, do not contain a criminal element therefore not requiring notification to law enforcement. A majority of the exploitation referrals the ANE Unit received were related to some form of financial exploitation or abuse.

Law Enforcement Referrals, continued



REFERRAL SOURCES

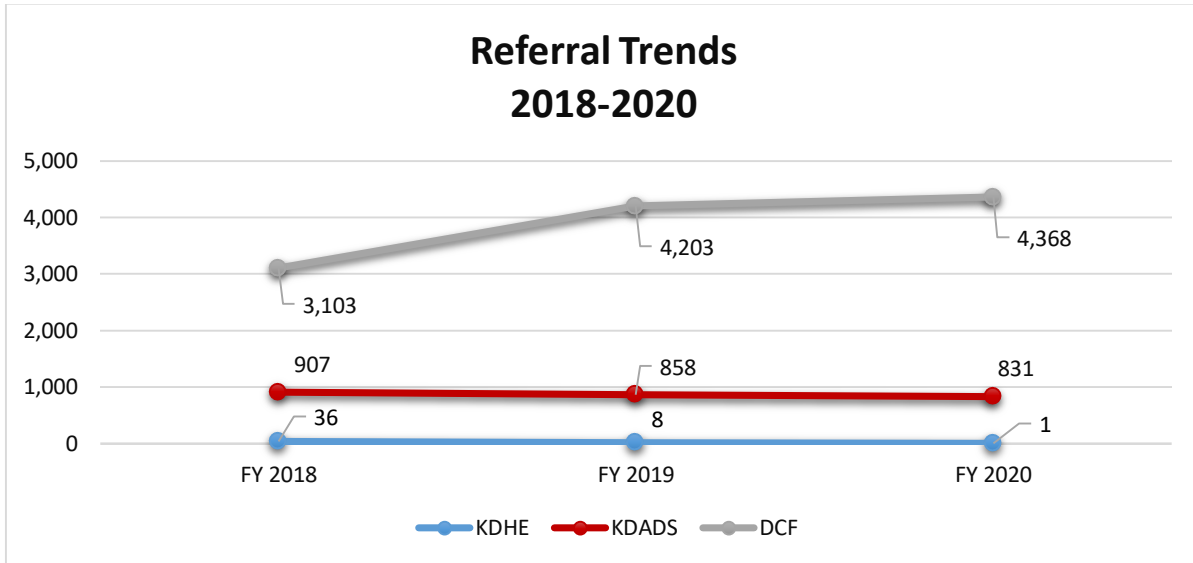
DCF Adult Protective Services (APS) - Social workers investigate reports and provide protective services to adults, with their consent, who reside in the community, adults residing in facilities licensed/certified by DCF, and to adults residing in adult care homes and other facilities licensed by KDADS 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 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

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



LAW ENFORCEMENT REFERRAL BREAKDOWN BY COUNTY

The below chart is a county breakdown showing referrals received respectfully from each county. The population shown is individuals age 18 and over in each county. 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	KDADS	KDHE	DCF	TOTAL	RATE PER 1,000
Allen County	9,628	1	0	23	24	2.49
Anderson County	5,838	3	0	13	16	2.74
Atchison County	12,413	1	0	18	19	1.53
Barber County	3,401	0	0	10	10	2.94
Barton County	19,708	2	0	68	70	3.55
Bourbon County	10,824	2	0	33	35	3.23
Brown County	7,145	1	0	24	25	3.50
Butler County	49,932	34	0	95	129	2.58
Chase County	2,126	2	0	3	5	2.35
Chautauqua County	2,606	0	0	6	6	2.30
Cherokee County	15,393	1	0	53	54	3.51
Cheyenne County	2,101	0	0	7	7	3.33
Clark County	1,501	0	0	5	5	3.33
Clay County	6,132	0	0	22	22	3.59
Cloud County	6,750	2	0	18	20	2.96
Coffey County	6,392	6	0	21	27	4.22
Comanche County	1,297	0	0	8	8	6.17
Cowley County	26,742	18	0	108	126	4.71
Crawford County	30,346	11	0	63	74	2.44
Decatur County	2,264	0	0	7	7	3.09
Dickinson County	14,180	7	0	52	59	4.16
Doniphan County	6,008	3	0	10	13	2.16

Law Enforcement Referrals, continued

Douglas County	100,233	19	0	77	96	.96
Edwards County	2,145	0	0	6	6	2.80
Elk County	1,950	0	0	24	24	12.31
Ellis County	22,516	4	0	46	50	2.22
Ellsworth County	4,985	2	0	7	9	1.81
Finney County	25,516	3	0	52	55	2.16
Ford County	23,599	6	0	51	57	2.42
Franklin County	19,502	1	0	54	55	2.82
Geary County	21,927	1	0	49	50	2.28
Gove County	1,998	1	0	2	3	1.50
Graham County	1,969	2	0	4	6	3.05
Grant County	5,017	4	0	8	12	2.39
Gray County	4,265	2	0	6	8	1.88
Greeley County	899	0	0	2	2	2.22
Greenwood County	4,682	0	0	21	21	4.49
Hamilton County	1,809	0	0	1	1	.55
Harper County	4,092	4	0	7	11	2.69
Harvey County	26,160	7	0	97	104	3.98
Haskell County	2,859	10	0	5	15	5.25
Hodgeman County	1,383	0	0	3	3	2.17
Jackson County	9,864	3	0	23	26	2.64
Jefferson County	14,723	10	0	31	41	2.78
Jewell County	2,293	0	0	8	8	3.49
Johnson County	457,530	202	1	376	579	1.27
Kearny County	2,734	0	0	4	4	1.46
Kingman County	5,564	2	0	8	10	1.80
Kiowa County	1,906	1	0	1	2	1.05
Labette County	14,924	7	0	59	66	4.42
Lane County	1,198	0	0	1	1	.83
Leavenworth County	62,600	23	0	69	92	1.47
Lincoln County	2,318	0	0	6	6	2.59
Linn County	7,584	0	0	24	24	3.16
Logan County	2,120	0	0	3	3	1.42
Lyon County	25,834	3	0	64	67	2.59
Marion County	9,378	9	0	10	19	2.03
Marshall County	7,363	1	0	30	31	4.21
McPherson County	22,058	14	0	87	101	4.58
Meade County	3,026	0	0	1	1	.33
Miami County	25,868	11	0	57	68	2.63
Mitchell County	4,619	0	0	8	8	1.73
Montgomery County	24,261	5	0	77	82	3.38
Morris County	4,453	0	0	6	6	1.35
Morton County	1,964	4	0	2	6	3.05

Law Enforcement Referrals, continued

Nemaha County	7,468	1	0	13	14	1.87
Neosho County	12,082	6	0	31	37	3.06
Ness County	2,181	2	0	3	5	2.29
Norton County	4,357	1	0	10	11	2.52
Osage County	12,260	2	0	40	42	3.43
Osborne County	2,687	2	0	6	8	2.98
Ottawa County	4,456	1	0	13	14	3.14
Pawnee County	5,364	5	0	13	18	3.36
Phillips County	4,068	0	0	8	8	1.97
Pottawatomie County	17,322	8	0	34	42	2.42
Pratt County	6,977	0	0	15	15	2.15
Rawlins County	1,979	1	0	4	5	2.53
Reno County	48,216	12	0	105	117	2.43
Republic County	3,636	0	0	8	8	2.20
Rice County	7,384	5	0	21	26	3.52
Riley County	62,113	3	0	78	81	1.30
Rooks County	3,827	1	0	7	8	2.09
Rush County	2,418	1	0	5	6	2.48
Russell County	5,367	0	0	24	24	4.47
Saline County	41,595	11	0	148	159	3.82
Scott County	3,556	2	0	9	11	3.09
Sedgwick County	384,853	160	0	547	707	1.84
Seward County	14,596	3	0	57	60	4.11
Shawnee County	135,735	59	0	646	705	5.19
Sheridan County	1,905	0	0	2	2	1.05
Sherman County	4,449	1	0	21	22	4.94
Smith County	2,841	0	0	1	1	.35
Stafford County	3,188	0	0	5	5	1.57
Stanton County	1,446	0	0	0	0	0
Stevens County	3,944	1	0	6	7	1.77
Sumner County	17,283	5	0	51	56	3.24
Thomas County	5,852	3	0	19	22	3.76
Trego County	2,310	0	0	6	6	2.60
Wabaunsee County	5,339	21	0	9	30	5.62
Wallace County	1,146	1	0	1	2	1.75
Washington County	4,182	1	0	17	18	4.30
Wichita County	1,562	3	0	2	5	3.20
Wilson County	6,480	6	0	17	23	3.55
Woodson County	2,465	0	0	8	8	3.25
Wyandotte County	119,705	48	0	214	262	2.19
TOTALS	2,213,064	831	1	4,368	5200	2.35

Substantiations

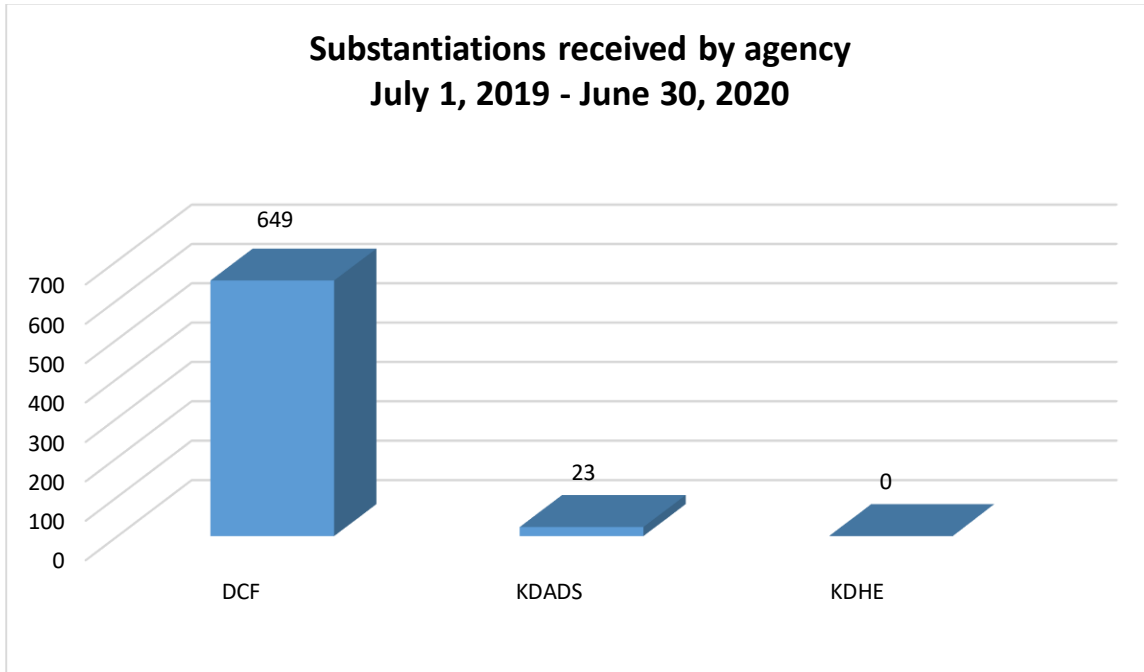
During this reporting period, the ANE Unit received a total of 672 substantiated findings of abuse, neglect or exploitation (“substantiations”) from DCF and KDADS. This year, the Unit confirmed with KDHE that there were no substantiations made during FY 2020.

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.

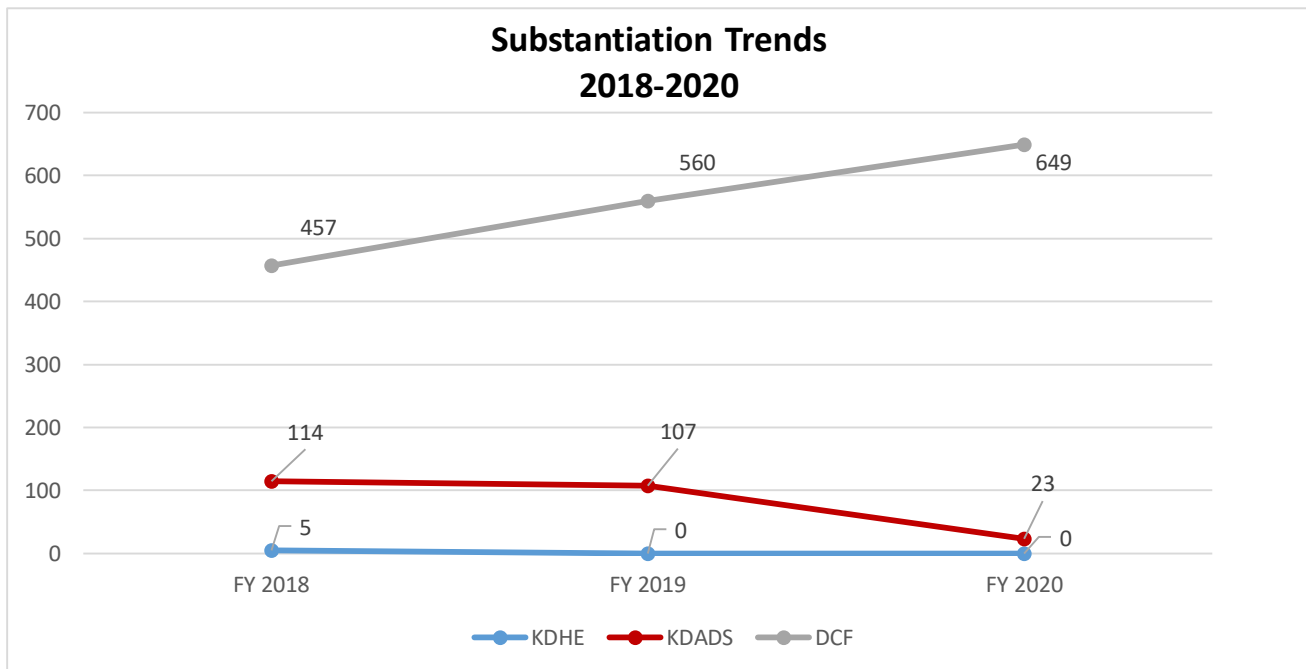
KDADS’s purpose of a substantiation is statutorily the same as DCF. In addition, KDADS has an additional responsibility to maintain the certified nurse aide (CNA) registry. If KDADS substantiates abuse, the substantiation is recorded in both registries. The substantiations received by the ANE Unit from 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 for 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 122 days, or 85 working days, and KDADS investigations average was 712 days, or 488 working days.

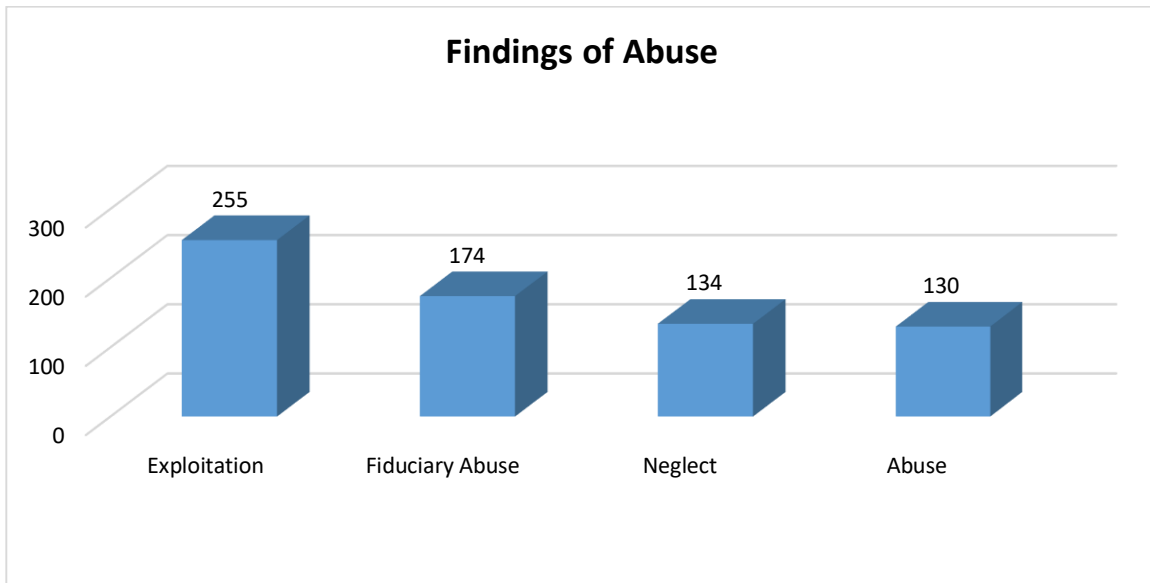


The numbers reflected in the total substantiated findings are indicative of a finding with one suspect and one victim. If a finding is received containing more than one suspect, the unit opens one case respectively for each finding for the sole purpose of accurate reporting. The unit continues to work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



Substantiations, continued

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 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 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	5	0	5
Anderson County	0	2	0	2
Atchison County	0	1	0	1
Barber County	0	0	0	0
Barton County	0	2	0	2
Bourbon County	1	5	0	6
Brown County	1	1	0	2
Butler County	5	24	0	29
Chase County	0	1	0	1
Chautauqua County	0	3	0	3
Cherokee County	0	5	0	5
Cheyenne County	0	2	0	2
Clark County	0	0	0	0
Clay County	0	5	0	5
Cloud County	0	3	0	3
Coffey County	0	1	0	1
Comanche County	0	0	0	0
Cowley County	0	17	0	17
Crawford County	0	5	0	5

Substantiations, continued

Decatur County	0	0	0	0
Dickinson County	0	7	0	7
Doniphan County	0	0	0	0
Douglas County	0	17	0	17
Edwards County	0	1	0	1
Elk County	0	2	0	2
Ellis County	0	17	0	17
Ellsworth County	0	2	0	2
Finney County	0	3	0	3
Ford County	1	3	0	4
Franklin County	0	8	0	8
Geary County	2	17	0	19
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	2	0	2
Hamilton County	0	0	0	0
Harper County	0	2	0	2
Harvey County	0	25	0	25
Haskell County	0	1	0	1
Hodgeman County	0	2	0	2
Jackson County	0	4	0	4
Jefferson County	0	6	0	6
Jewell County	0	0	0	0
Johnson County	2	96	0	98
Kearny County	0	0	0	0
Kingman County	0	1	0	1
Kiowa County	0	0	0	0
Labette County	0	8	0	8
Lane County	0	0	0	0
Leavenworth County	1	14	0	15
Lincoln County	0	0	0	0
Linn County	0	2	0	2
Logan County	0	0	0	0
Lyon County	0	18	0	18
Marion County	0	0	0	0
Marshall County	0	2	0	2
McPherson County	0	9	0	9
Meade County	0	1	0	1
Miami County	0	3	0	3
Mitchell County	0	1	0	1
Montgomery County	0	6	0	6
Morris County	0	0	0	0
Morton County	0	0	0	0

Substantiations, continued

Nemaha County	0	0	0	0
Neosho County	0	2	0	2
Ness County	0	0	0	0
Norton County	0	0	0	0
Osage County	0	2	0	2
Osborne County	0	2	0	2
Ottawa County	0	0	0	0
Pawnee County	0	0	0	0
Phillips County	0	0	0	0
Pottawatomie County	1	2	0	3
Pratt County	0	3	0	3
Rawlins County	0	0	0	0
Reno County	0	10	0	10
Republic County	0	0	0	0
Rice County	0	3	0	3
Riley County	0	15	0	15
Rooks County	0	1	0	1
Rush County	0	0	0	0
Russell County	0	5	0	5
Saline County	0	21	0	21
Scott County	0	1	0	1
Sedgwick County	0	93	0	93
Seward County	0	7	0	7
Shawnee County	4	75	0	79
Sheridan County	0	0	0	0
Sherman County	0	0	0	0
Smith County	0	0	0	0
Stafford County	0	0	0	0
Stanton County	0	0	0	0
Stevens County	0	0	0	0
Sumner County	5	2	0	7
Thomas County	0	5	0	5
Trego County	0	2	0	2
Wabaunsee County	0	2	0	2
Wallace County	0	0	0	0
Washington County	0	2	0	2
Wichita County	0	0	0	0
Wilson County	0	4	0	4
Woodson County	0	0	0	0
Wyandotte County	0	28	0	28
TOTALS	23	649	0	672

Investigations and Prosecutions

ELDER AND DEPENDENT ADULT ABUSE

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 accommodate these changes, the ANE Unit was made part of the newly created Fraud and Abuse Litigation Division (FALD). In addition, special agent and prosecution capacity were added within the Division to process cases. Once these resources were obtained, FALD began receiving and accepting requests for assistance from law enforcement and local 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 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, the attorney general's Fraud and Abuse Litigation Division was involved in the litigation of 19 elder and dependent adult abuse cases. Courts have ordered \$39,502.17 in restitution related to cases during the past fiscal year. Law enforcement agents located within FALD also participated in investigating 40 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 14 securities fraud cases. Courts have ordered \$102,500 in restitution related to cases during the past fiscal year.

Investigations and Prosecutions, continued

INSURANCE FRAUD

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.

During the current reporting period, FALD was involved in the litigation of 20 insurance fraud cases. Courts have ordered \$460,543.51 in restitution and \$13,000 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.

During the current reporting period, FALD was involved in the litigation of 38 cases. Courts have ordered \$26,497.96.13 in restitution and \$18,350 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 \$2,075 in restitution and \$194,438.24 in fines and fees related to administrative workers compensation cases as reported by the Kansas Department of Labor.

GENERAL WHITE COLLAR FRAUD

From its inception, FALD 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, FALD was involved in the litigation of seven general white collar fraud cases. Courts have ordered \$1,000 in fines related to cases during the past fiscal year.

CASE ACTIVITY JULY 1, 2019 TO JUNE 30, 2020

	ANE	Insurance	Revenue	Securities	Other
Cases Pending	19	20	38	14	7
New Cases Filed	7	8	18	5	4
Cases Resulting in Conviction	3	6	12	1	2
Cases Resulting in Acquittal	0	0	0	0	0
Cases Dismissed	1	1	1	0	1
Convictions Resulting in Probation	5	5	11	1	2
Convictions Resulting in Incarceration	2	1	0	0	0
Convictions Pending Sentence	0	0	1	0	0
Cases Resulting in Diversion	1	1	3	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.

Investigations and Prosecutions, continued

RECOVERIES

	Restitution	Fines and Fees
Elder and Dependent Adult Abuse	\$39,502.17	\$0.00
Securities Fraud	\$102,500.00	\$0.00
Insurance Fraud	\$460,543.51	\$13,000.00
Revenue	\$26,497.96	\$18,350.00
Workers Compensation	\$2,075	\$194,438.24
Other	\$0.00	\$1,000.00
Subtotals	\$631,118.64	\$226,788.24
Total Restitution, Penalties and Fees	\$857,906.88	

Education and Outreach

FALD provided instruction for 14 trainings. Due to COVID-19, four trainings were cancelled. 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 continue to be targeted 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 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 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

In October 2019, the Elder and Dependent Adult Abuse Prevention Council began meeting. The Council replaced 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. The current members of the Council, appointed by Attorney General Schmidt:

- 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
- Deb Schwarz, Deputy Director of Prevention and Protection Services, DCF
- Kendra Baldrige, Director of the Bureau of Community Health Systems, 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 McFatrigh, Executive Director, Kansas Advocates for Better Care

Education and Outreach, continued

The Council met in October and December 2019, and in March and June 2020. The Council created three sub-committees of the Council to address the following issues:

- 1) Statutes and regulations
- 2) Education, outreach, and awareness
- 3) Multi-disciplinary teams

At each meeting the Council hears reports from all three sub-committees as well as addressing other relevant topics. One such topic the Council continues to stay informed on and review is the effects of COVID-19 on the elderly and dependent adult population. The Council will continue to meet on a regular basis during the upcoming fiscal year. Many of these meetings will be remote due to COVID-19.

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:

- ALP (Alleged perpetrator) had an employment prohibition on her Nurse Aide Registry, which should have prevented her from working with the vulnerable population. The ALP had previously been charged in 2017 with identity theft, theft and mistreatment. She was later convicted on those counts. This specific KDADS referral was received which indicated the ALP had forged the IA's name on several checks. Immediate follow up with KDADS revealed the facility had transposed numbers in the social security number when they requested a criminal background check. This error resulted in KDADS missing the prohibition. It also resulted in KDADS putting the ALP's name with new SSN into their system as a new CNA. When the Unit brought it to their attention, they merged the two together, so her prohibition was listed with both SSN's. This perpetrator has since been convicted of criminal charges related to the referral and there is a permanent employment prohibition listed on the Kansas Nurse Aide Registry.
- A KDADS referral received in October 2019 alleged the ALP had taken over \$53,000 from victim from March 2019 through October 2019. When the facility terminated her, she immediately took employment at another facility in Olathe. Per email with KDADS, the Olathe facility had not completed a background check upon employment as they are required. Background checks are routinely done by facilities to ensure the licensed individual does not hold any prohibitions preventing their employment. Even though at this time there would not have been any prohibitions on the KDADS registry preventing her from working there, it is still concerning the facility did not follow protocol. FALD continues to be concerned with the KDADS investigative process and the length of time of an investigation. In this case, the local police department detective was very prompt in following up with inquiries from the unit and investigating this individual for her manipulation and taking advantage of her position within the facility. KDADS has still not issued a notice of finding preventing the ALP from working with more vulnerable populations, and it has been over a year since the original notice was received. The ALP has been criminally charged with eight counts of forgery and one count of theft and is awaiting further hearings.
- In 2015 this case was assigned to DCF for exploitation of a 67-year-old victim who was residing in a nursing home. The Unit did not receive the substantiated finding until nearly four years after the intake was assigned. Further investigation by the Unit revealed both ALP's had been convicted of their crimes and sentenced two years prior to DCF making a finding. Log notes from DCF indicate cases were staffed with the supervisor on the day the case was due, but no finding was made. Instead bank statements were forwarded for review and analysis. There is a two-year period of inaction in DCF's log notes from September 2016 until March 2018. This case should have been staffed frequently with the supervisor for updates on the status of the investigation. Log notes reappear from April 2018 until April

Unit Interventions, continued

2019. DCF statute KSA 39-1433 states if an investigation within 30 working days would interfere with a criminal investigation then DCF's time period can be extended, and the investigation and evaluation shall still be completed within 90 working days. The statute further states that 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. The Unit continues to see findings from DCF that are well beyond their allowable 90-day time period for an investigation. In this case it was described to the Unit that DCF legal was waiting on journal entries from the courthouse on the sentencing. These journal entries would've been available post sentencing in 2016.

- The Unit received a substantiation in September of 2019 for Fiduciary Abuse of a 90-year-old by his daughter. The daughter had been the social security payee for a lengthy period of time. The victim was residing in a nursing home. No payments had been made in four months, and the full amount of payment hadn't been made since prior to March 2018. A social worker from the facility was helping the victim apply for Medicaid and noticed cash withdrawals and other expenses that weren't for the victims' benefit. The nursing home bill was behind over \$100,000 at the time this report was received. The Unit followed up with the investigating law enforcement agency and learned that the Social Security Administration (SSA) was also involved in this investigation for SSI fraud. After email correspondence with Law Enforcement, the Special Agent with SSA reached out to the Unit to inquire as to why there was interest in this case. The Agent explained that the SSA has a threshold of over \$150,000 for them to look at cases for prosecution, and this case came in around \$130,000. The Unit learned the son of the victim in this case suffered from a mental disability and his sister (same perpetrator) was also his SSI payee, and had also been misusing his money. SSA was able to identify over \$30,000 misused on his account. The Unit followed up with the County Attorney at the time, and no charges had been filed yet. At this time, the Unit is still following up on this case to ensure it gets proper review for prosecution.
- Early during this reporting period, the Unit inquired with law enforcement as to the status of an investigation involving a woman who was residing in a nursing home within their jurisdiction who had been financially taken advantage of by her daughter. Law Enforcement answered timely all questions posed by the Unit and kept the Unit updated on the case. Law Enforcement and the County Attorney requested the Unit's assistance in investigating and prosecuting this case. The suspect had misused over \$29,000 of her mother's money in purchasing jewelry for herself. After several months of investigation, the suspect was charged with Mistreatment of a defendant adult. This criminal case is still pending.
- A substantiation the Unit received in 2017 has been tracked for the last couple years waiting on a charging decision by the local county attorney's office. The Unit contacted the investigating law enforcement agency and learned their affidavit for charging had been sent over in December of 2016 for the County Attorney to review. Phone calls were made to the County Attorney's office, and another copy of the affidavit was ultimately sent to the County attorney's office for review in April of 2017. In May of 2018, the Unit accepted this case for further investigation and possible prosecution at the County Attorney's request. In January of 2020 the suspect was charged with one count of Mistreatment of an elder person. The criminal case is still pending.

Significant Cases

State v. Cynthia Kindall - Norton County

Kindall was convicted of one count of theft (class A nonperson misdemeanor) on May 6, 2019. The conviction arose from a joint investigation conducted by the Consumer Protection and Fraud and Abuse Litigation Divisions of the Attorney General's Office. The investigation revealed Kindall attempted to obtain a payday loan in another person's name. Kindall was placed on probation for one year for her conviction. The Court, as a special term of Kindall's probation, prohibited her from soliciting money from other individuals. In February of 2020, the State moved to revoke Kindall's probation. An investigation conducted by the Norton, Kansas Police Department revealed Kindall had requested \$10,000 from another individual that Kindall intended to send overseas. After a hearing on the State's motion, the Court revoked Kindall's probation and ordered she serve her original sentence of 12 months incarceration in the Norton County Jail.

State v. Ann M. Radford – Jefferson County

Radford was convicted of one count of mistreatment of an elder person (severity level five person felony). The conviction arose from an investigation conducted by the Fraud and Abuse Litigation Division of the Attorney General's Office. The investigation revealed that while serving as her mother-in-law's power of attorney Radford used her mother-in-law's money for gambling rather than for her mother-in-law's benefit. As part of a plea agreement negotiated by the Attorney General's Office, Radford paid \$49,800.89 in restitution prior to sentencing. \$32,981.79 of this restitution was paid to the State of Kansas Medicaid Program to reimburse the program for payments it made for the nursing home care of Radford's mother-in-law after Radford had expended her mother-in-law's financial resources on gambling. The Court sentenced Radford to three years of probation. The Court ordered, as a special condition of Radford's probation, that Radford complete a gambling addiction treatment program.

State v. Trisha A. Wiehl - Smith County

Wiehl was convicted of 57 charges including counts of insurance fraud, theft, making false information, insurance agent or broker failing to pay premium to company, forgery, and false impersonation. These convictions arose from a joint investigation conducted by the Kansas Insurance Department and the Fraud and Abuse Litigation Division of Attorney General's Office. The investigation revealed Wiehl committed numerous crimes during her work as an insurance agent. Wiehl filed fraudulent insurance claims against her customers' policies and kept the insurance payments for herself; accepted insurance premium payments from customers, kept the money for herself, and did not obtain an insurance policy for the customer or did not submit the premium payment to the insurance company; and forged signatures of various individuals, including the Smith Center City Clerk, to take out loans in customers' names and used the loan proceeds to pay the customers' insurance premiums. The Court sentenced Wiehl to three years of probation and fined her \$3,000. The State filed a Motion to Correct Illegal Sentence, and after hearing arguments on the State's motion, the Court resentenced Wiehl to 45 days incarceration in the Smith County Jail followed by three years of probation and fined her \$11,500.

State v. Benjamin Thompson – Jefferson County

Thompson served as power of attorney for his elder grandmother. Instead of acting in his grandmother's best interest and solely for her benefit, over a period of nine months he withdrew thousands of dollars from her bank accounts for his own use and gambled more thousands away at a casino. Mr. Thompson pleaded no contest to mistreatment of an elder person through a violation of the Kansas Power of Attorney Act.

Significant Cases, continued

State v. Lawrence Hagedorn – Sedgwick County

Hagedorn was a registered agent and a registered investment adviser representative working at a brokerage firm. He sought personal and business loans from his securities and investment clients and borrowed a total of \$108,500 from two Kansas clients, one of whom was an elder person. Hagedorn issued the clients promissory notes and did not disclose that he had previously issued other notes to other clients that were still unpaid and in default. Hagedorn's conduct violated a securities regulation governing dishonest or unethical practices of broker-dealers and agents, and he pleaded guilty to four counts of intentional violation of a rule adopted under the Kansas Uniform Securities Act. The Court ordered a total of \$102,500 in restitution.

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 July 2020, Attorney General Schmidt announced a partnership with the University of Kansas' Kansas Law Enforcement Training Center (KLETC) to offer live, online trainings for law enforcement who investigate elder abuse. Schmidt has prioritized combating elder abuse during his tenure as attorney general, in particular during his term as 2017-2018 president of the National Association of Attorneys General. Schmidt's presidential initiative, titled "Protecting America's Seniors: Attorneys General United Against Elder Abuse," resulted in numerous conversations and trainings about how to build capacity to fight elder abuse, neglect and exploitation, including his office's 2018 collaboration with KLETC for in-person trainings in Wichita, Topeka and Johnson County.

The upcoming trainings are a continuation of that series and will now be offered live via electronic group meeting software hosted by KLETC. This venue allows for greater access for law enforcement – particularly in smaller, rural communities – who may not have the resources or the time to travel to in-person sessions. This venue is also extremely valuable and desired in light of the COVID-19 pandemic.

The trainings will be available to law enforcement statewide, and will be eligible for fulfilling continuing education requirements. The trainings will cover financial, physical, and sexual abuse of elder and dependent adults and will be offered monthly in the fall of 2020 and then quarterly beginning in 2021.

The Elder and Dependent Adult Abuse Prevention Council will continue to meet regularly in the coming year. The Council intends to introduce legislation in the 2021 session to establish multi-disciplinary teams for investigating and prosecuting elder and dependent adult abuse. The proposed legislation will further FALD's efforts on both state and local levels to ensure a multi-disciplinary team approach to investigations of abuse neglect and exploitation. It will also help expand the MDT approach to rural areas.

Finally, FALD will continue to 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.

Statutory Authority

Chapter 75.—State Departments; Public Officers and Employees

Article 7.—Attorney General

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

Statutory Authority, continued

(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.

Statutory Authority, continued

(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.



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