

# 2021

## **Abuse, Neglect & Exploitation Unit Annual Report**

Kansas Fiscal Year 2021  
July 1, 2020 – June 30, 2021

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



**KANSAS  
ATTORNEY GENERAL**

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**DEREK SCHMIDT**

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# Kansas Attorney General Derek Schmidt

January 10, 2022

Dear Fellow Kansans:

It is my pleasure to present the Fiscal Year 2021 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 2021 as well as the statutorily required report of the ANE Unit. Overall, the ANE Unit tracked a total of nearly 4,700 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 nearly 500 substantiated cases of abuse, neglect or exploitation of vulnerable adults. While most criminal cases in Kansas are prosecuted by local authorities, FALD attorneys continued to directly prosecute criminal cases referred to our office. While the statistics on convictions decreased due to the overall slowdowns in the judicial system due to COVID, the cases continue to move forward as the courts reopen.

The FALD also increased its focus on building capacity statewide to investigate and prosecute cases of abuse, neglect and exploitation of vulnerable adults. It championed new legislation to strengthen the ability to protect seniors and worked with the Kansas Law Enforcement Training Center to provide virtual trainings.

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 Kaufman's. 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).

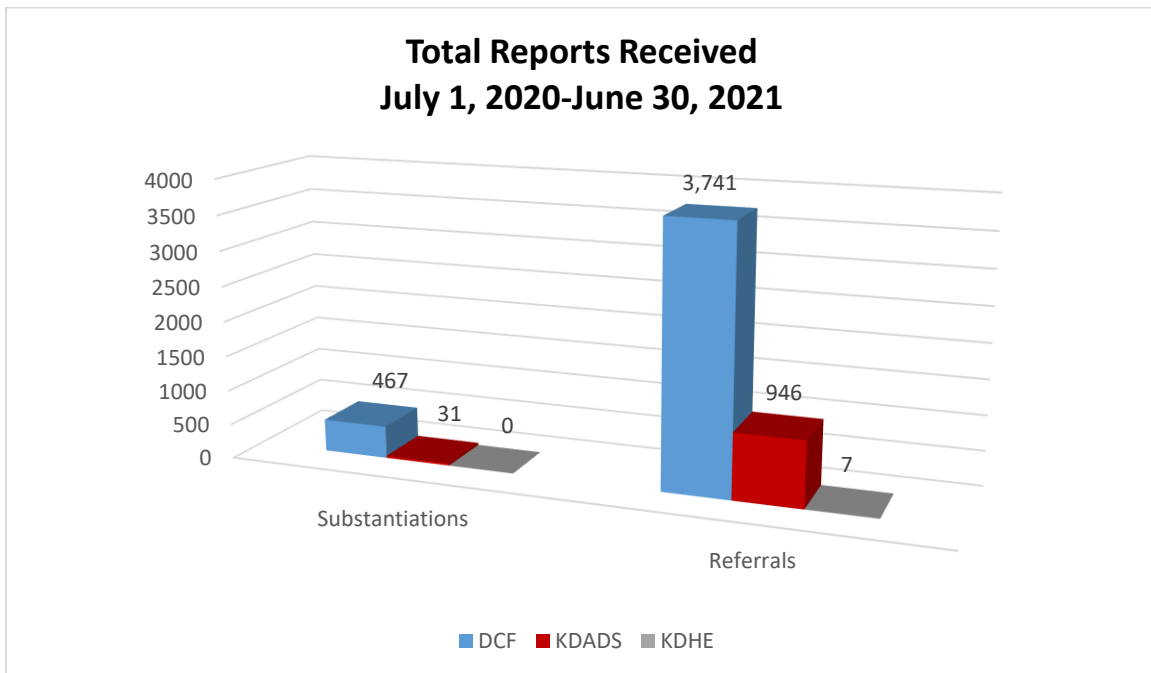
In addition to compiling and reporting statistical data, this annual report provides a broad overview of the ANE Unit's activities. The report focuses on the ways the Unit's work has resulted in intervention or investigation of the abuse, neglect, and exploitation of vulnerable adults. It also looks 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 2021

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, 2020, through June 30, 2021, the ANE Unit received a total of 5,192 reports of abuse, neglect or exploitation, the sum of law enforcement referrals and agency substantiations.

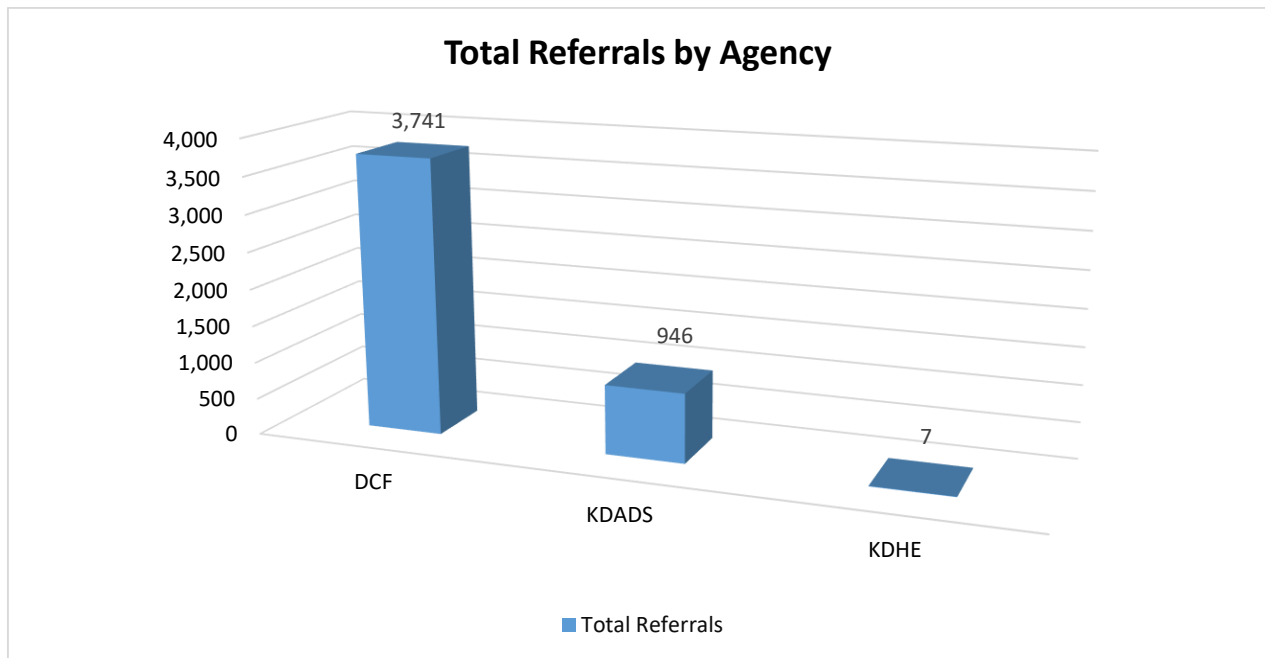
Of the 5,192 reports of abuse, neglect or exploitation from the above agencies a majority of them were initial referrals to law enforcement agencies and the remaining were substantiated findings of abuse, neglect or exploitation.



# 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.



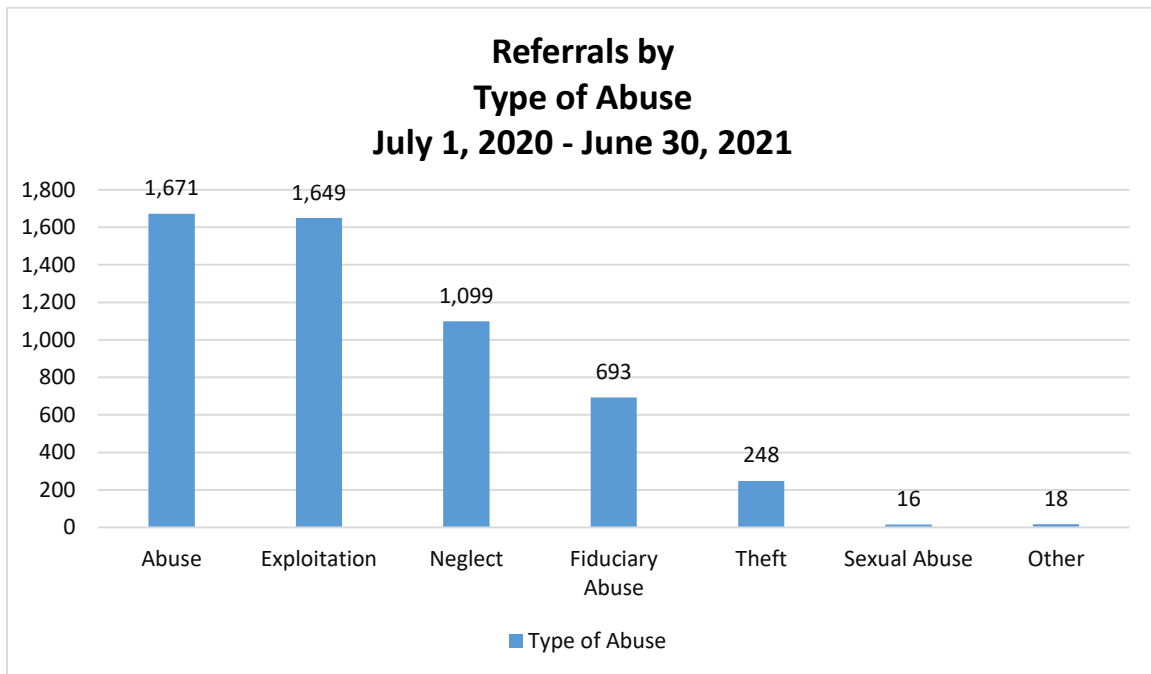
During this reporting period the unit received 4,694 law enforcement referrals. Each referral is assigned a type of allegation as designated by our unit. The unit’s designation is determined using the facts provided, statutory and regulatory authority, and agency policies and procedures. There are seven 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.

Abuse was the most reported allegation in all of the referrals received by the ANE Unit at 1,671. The ANE Unit received 1,649 exploitation referrals, 1,099 for neglect, 693 for fiduciary abuse, 248 for theft, and 16 for sexual abuse. The ANE Unit categorized 18 “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.

During the 2021 Legislative session House Bill 2114 passed adding Financial Exploitation as an allegation for DCF investigations. This allegation combines the existing allegations of fiduciary abuse and exploitation. Going

## Law Enforcement Referrals, continued

forward starting with FY 2022, the unit will be tracking financial exploitation referrals, and substantiations as received from DCF.



## 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](http://www.dcf.ks.gov)

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

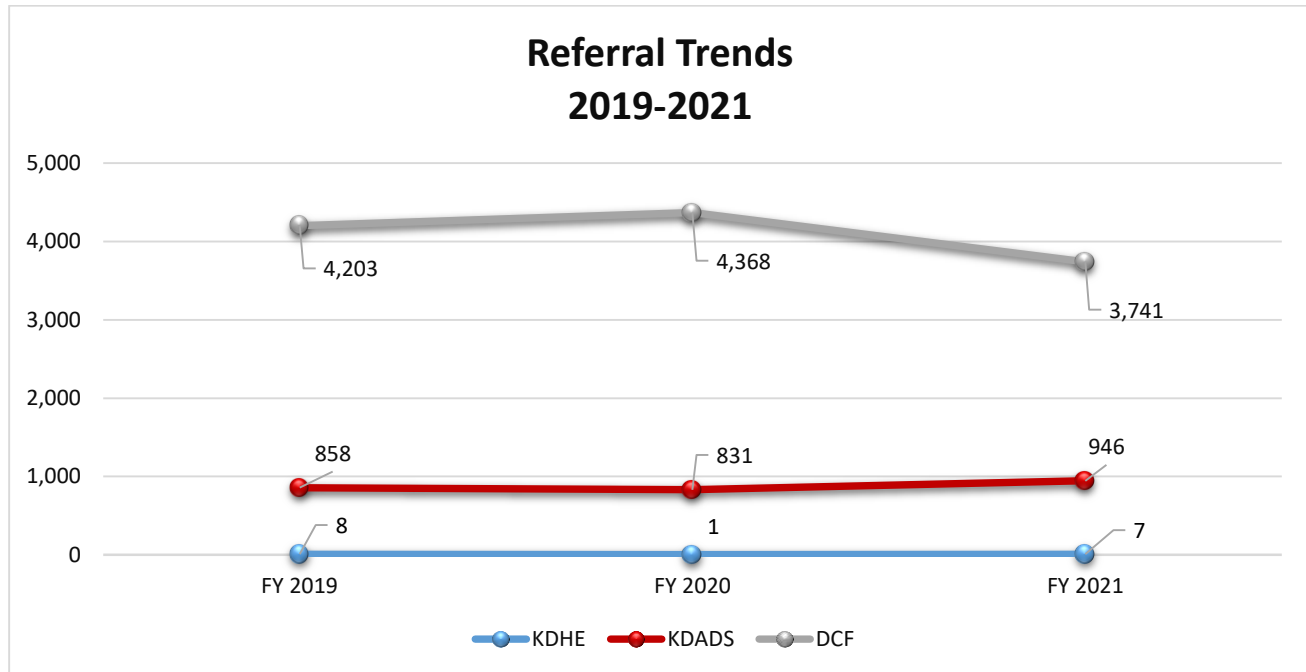
In addition, the Aging and Disability Resource Center (ADRC) is now available and is a trusted source of information where people of all ages, abilities and income levels – and their caregivers – can go to obtain assistance in planning for their future long-term service and support needs. The ADRC website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

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

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 Referrals, continued



## 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. These population numbers were provided by KDHE and are an estimate for Kansas Counties based on the 2010 Census. The 2020 Census population numbers will not be released until next year and will be reflected on the next FY Annual Report. 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      | 9,642      | 3     | 0    | 41  | 44    | 4.56           |
| Anderson County   | 5,890      | 0     | 0    | 11  | 11    | 1.88           |
| Atchison County   | 12,393     | 4     | 0    | 7   | 11    | .89            |
| Barber County     | 3,353      | 0     | 0    | 2   | 2     | .60            |
| Barton County     | 19,586     | 10    | 0    | 70  | 80    | 4.08           |
| Bourbon County    | 10,717     | 1     | 0    | 31  | 32    | 2.99           |
| Brown County      | 7,059      | 2     | 0    | 14  | 16    | 2.27           |
| Butler County     | 50,196     | 24    | 0    | 76  | 100   | 1.99           |
| Chase County      | 2,068      | 2     | 0    | 2   | 4     | 1.93           |
| Chautauqua County | 2,545      | 0     | 0    | 6   | 6     | 2.36           |
| Cherokee County   | 15,199     | 0     | 0    | 43  | 43    | 2.83           |
| Cheyenne County   | 2,068      | 0     | 0    | 6   | 6     | 2.90           |
| Clark County      | 1,477      | 0     | 0    | 3   | 3     | 2.03           |
| Clay County       | 6,129      | 2     | 0    | 21  | 23    | 3.75           |
| Cloud County      | 6,650      | 3     | 0    | 15  | 18    | 2.71           |
| Coffey County     | 6,433      | 5     | 0    | 16  | 21    | 3.26           |

## Law Enforcement Referrals, continued

| County             | Population | KDADS | KDHE | DCF | TOTAL | RATE PER 1,000 |
|--------------------|------------|-------|------|-----|-------|----------------|
| Comanche County    | 1,290      | 7     | 0    | 6   | 13    | 10.08          |
| Cowley County      | 26,595     | 7     | 0    | 85  | 92    | 3.46           |
| Crawford County    | 30,269     | 12    | 0    | 77  | 89    | 2.94           |
| Decatur County     | 2,224      | 1     | 0    | 3   | 4     | 1.80           |
| Dickinson County   | 14,121     | 3     | 0    | 25  | 28    | 1.98           |
| Doniphan County    | 5,912      | 9     | 0    | 8   | 17    | 2.88           |
| Douglas County     | 100,701    | 7     | 0    | 69  | 76    | .75            |
| Edwards County     | 2,130      | 2     | 0    | 5   | 7     | 3.29           |
| Elk County         | 1,922      | 0     | 0    | 5   | 5     | 2.60           |
| Ellis County       | 22,645     | 8     | 0    | 56  | 64    | 2.83           |
| Ellsworth County   | 4,953      | 9     | 3    | 9   | 21    | 4.24           |
| Finney County      | 25,210     | 10    | 0    | 39  | 49    | 1.94           |
| Ford County        | 23,232     | 8     | 0    | 38  | 46    | 1.98           |
| Franklin County    | 19,683     | 4     | 0    | 48  | 52    | 2.64           |
| Geary County       | 22,175     | 1     | 0    | 39  | 40    | 1.80           |
| Gove County        | 1,973      | 1     | 0    | 2   | 3     | 1.52           |
| Graham County      | 1,877      | 1     | 0    | 6   | 7     | 3.73           |
| Grant County       | 4,950      | 2     | 0    | 11  | 13    | 2.63           |
| Gray County        | 4,248      | 2     | 0    | 4   | 6     | 1.41           |
| Greeley County     | 877        | 0     | 0    | 0   | 0     | 0              |
| Greenwood County   | 4,613      | 1     | 0    | 9   | 10    | 2.17           |
| Hamilton County    | 1,771      | 0     | 0    | 2   | 2     | 1.13           |
| Harper County      | 4,015      | 0     | 0    | 11  | 11    | 2.74           |
| Harvey County      | 26,045     | 13    | 0    | 97  | 110   | 4.22           |
| Haskell County     | 2,821      | 0     | 0    | 2   | 2     | .71            |
| Hodgeman County    | 1,370      | 0     | 0    | 1   | 1     | .73            |
| Jackson County     | 9,867      | 2     | 0    | 19  | 21    | 2.13           |
| Jefferson County   | 14,755     | 3     | 0    | 20  | 23    | 1.56           |
| Jewell County      | 2,255      | 0     | 0    | 0   | 0     | 0              |
| Johnson County     | 462,899    | 249   | 1    | 294 | 544   | 1.18           |
| Kearny County      | 2,651      | 0     | 0    | 4   | 4     | 1.51           |
| Kingman County     | 5,476      | 2     | 0    | 5   | 7     | 1.28           |
| Kiowa County       | 1,870      | 0     | 0    | 1   | 1     | .53            |
| Labette County     | 14,819     | 8     | 0    | 55  | 63    | 4.25           |
| Lane County        | 1,169      | 0     | 0    | 2   | 2     | 1.71           |
| Leavenworth County | 62,946     | 18    | 0    | 50  | 68    | 1.08           |
| Lincoln County     | 2,328      | 1     | 0    | 5   | 6     | 2.58           |
| Linn County        | 7,586      | 0     | 0    | 18  | 18    | 2.37           |
| Logan County       | 2,054      | 0     | 0    | 4   | 4     | 1.95           |
| Lyon County        | 25,741     | 1     | 0    | 70  | 71    | 2.76           |
| Marion County      | 9,219      | 12    | 0    | 24  | 36    | 3.90           |

## Law Enforcement Referrals, continued

| County              | Population | KDADS | KDHE | DCF | TOTAL | RATE PER 1,000 |
|---------------------|------------|-------|------|-----|-------|----------------|
| Marshall County     | 7,346      | 0     | 0    | 11  | 11    | 1.50           |
| McPherson County    | 22,050     | 17    | 0    | 74  | 91    | 4.13           |
| Meade County        | 2,985      | 0     | 0    | 5   | 5     | 1.68           |
| Miami County        | 26,032     | 11    | 0    | 49  | 60    | 2.30           |
| Mitchell County     | 4,523      | 5     | 0    | 12  | 17    | 3.76           |
| Montgomery County   | 24,107     | 5     | 0    | 63  | 68    | 2.82           |
| Morris County       | 4,401      | 2     | 0    | 4   | 6     | 1.36           |
| Morton County       | 1,940      | 1     | 0    | 2   | 3     | 1.55           |
| Nemaha County       | 7,438      | 2     | 0    | 5   | 7     | .94            |
| Neosho County       | 12,038     | 8     | 1    | 33  | 42    | 3.49           |
| Ness County         | 2,160      | 5     | 0    | 1   | 6     | 2.78           |
| Norton County       | 4,308      | 0     | 0    | 6   | 6     | 1.39           |
| Osage County        | 12,167     | 0     | 0    | 23  | 23    | 1.89           |
| Osborne County      | 2,721      | 3     | 0    | 9   | 12    | 4.41           |
| Ottawa County       | 4,413      | 2     | 0    | 13  | 15    | 3.40           |
| Pawnee County       | 5,381      | 3     | 0    | 10  | 13    | 2.42           |
| Phillips County     | 4,014      | 0     | 0    | 1   | 1     | .25            |
| Pottawatomie County | 17,556     | 5     | 0    | 20  | 25    | 1.42           |
| Pratt County        | 6,918      | 0     | 0    | 17  | 17    | 2.46           |
| Rawlins County      | 1,956      | 0     | 0    | 4   | 4     | 2.04           |
| Reno County         | 48,150     | 14    | 0    | 110 | 124   | 2.58           |
| Republic County     | 3,566      | 3     | 0    | 10  | 13    | 3.65           |
| Rice County         | 7,234      | 10    | 0    | 14  | 24    | 3.32           |
| Riley County        | 61,070     | 7     | 0    | 125 | 132   | 2.16           |
| Rooks County        | 3,739      | 1     | 0    | 7   | 8     | 2.14           |
| Rush County         | 2,376      | 1     | 0    | 10  | 11    | 4.63           |
| Russell County      | 5,289      | 4     | 0    | 14  | 18    | 3.40           |
| Saline County       | 41,530     | 18    | 0    | 138 | 156   | 3.76           |
| Scott County        | 3,539      | 1     | 0    | 3   | 4     | 1.13           |
| Sedgwick County     | 388,481    | 167   | 1    | 407 | 575   | 1.48           |
| Seward County       | 14,500     | 6     | 0    | 30  | 36    | 2.48           |
| Shawnee County      | 135,067    | 80    | 0    | 578 | 658   | 4.87           |
| Sheridan County     | 1,912      | 2     | 0    | 3   | 5     | 2.62           |
| Sherman County      | 4,389      | 5     | 0    | 36  | 41    | 9.34           |
| Smith County        | 2,826      | 1     | 0    | 3   | 4     | 1.42           |
| Stafford County     | 3,084      | 6     | 0    | 8   | 14    | 4.54           |
| Stanton County      | 1,407      | 0     | 0    | 0   | 0     | 0              |
| Stevens County      | 3,857      | 0     | 0    | 3   | 3     | .78            |
| Sumner County       | 17,157     | 9     | 1    | 40  | 50    | 2.91           |
| Thomas County       | 5,867      | 5     | 0    | 18  | 23    | 3.92           |
| Trego County        | 2,242      | 0     | 0    | 4   | 4     | 1.78           |

## Law Enforcement Referrals, continued

| County            | Population | KDADS | KDHE | DCF  | TOTAL | RATE PER 1,000 |
|-------------------|------------|-------|------|------|-------|----------------|
| Wabaunsee County  | 5,325      | 7     | 0    | 6    | 13    | 2.44           |
| Wallace County    | 1,127      | 0     | 0    | 5    | 5     | 4.44           |
| Washington County | 4,161      | 0     | 0    | 12   | 12    | 2.88           |
| Wichita County    | 1,516      | 1     | 0    | 4    | 5     | 3.30           |
| Wilson County     | 6,402      | 7     | 0    | 27   | 34    | 5.31           |
| Woodson County    | 2,411      | 0     | 0    | 9    | 9     | 3.73           |
| Wyandotte County  | 119,719    | 62    | 0    | 163  | 225   | 1.88           |
| <b>TOTALS</b>     | 2,217,059  | 946   | 7    | 3741 | 4,694 | 2.18           |

# Substantiations

During this reporting period, the ANE Unit received a total of 498 substantiated findings of abuse, neglect or exploitation (“substantiations”) from DCF and KDADS and KDHE during FY 2021.

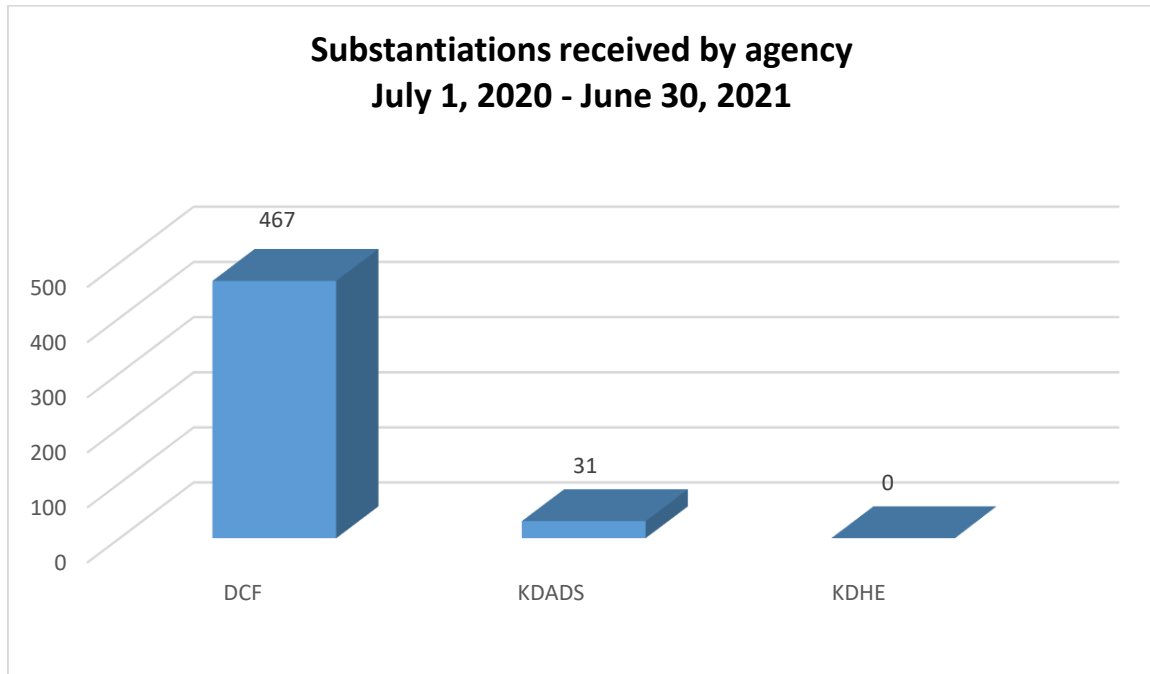
The purpose of a substantiation for DCF is to add the perpetrator to the statewide adult abuse registry. K.S.A. 65-6205 allows community services providers, mental health centers and independent living centers to perform employment background checks to determine whether a potential employee is listed 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.

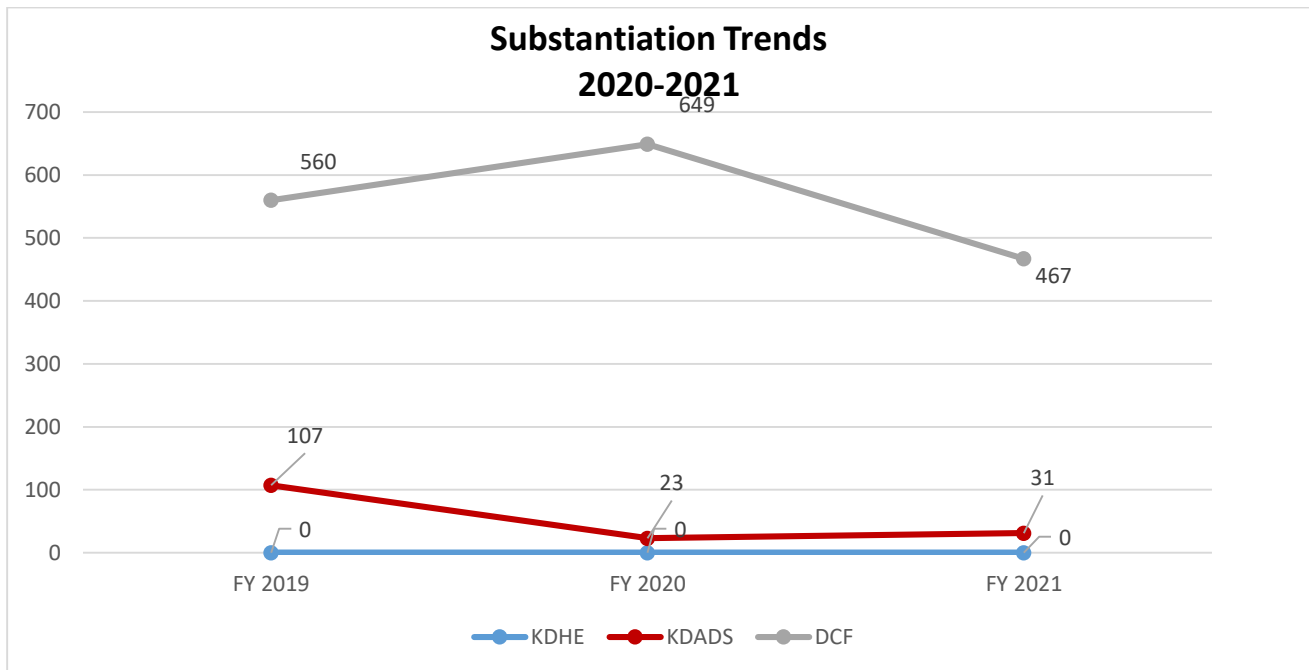
KDHE’s purpose of a substantiation is the same as KDADS and DCF. KDHE investigates reports of adult abuse, neglect and exploitation occurring within medical facilities and non-long term care facilities. Examples include hospitals, ambulatory surgery centers, home health agencies, hospice, rural health 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 105 days, or 76 working days, and KDADS investigations average was 887 days, 619 working days.

## Substantiations, continued

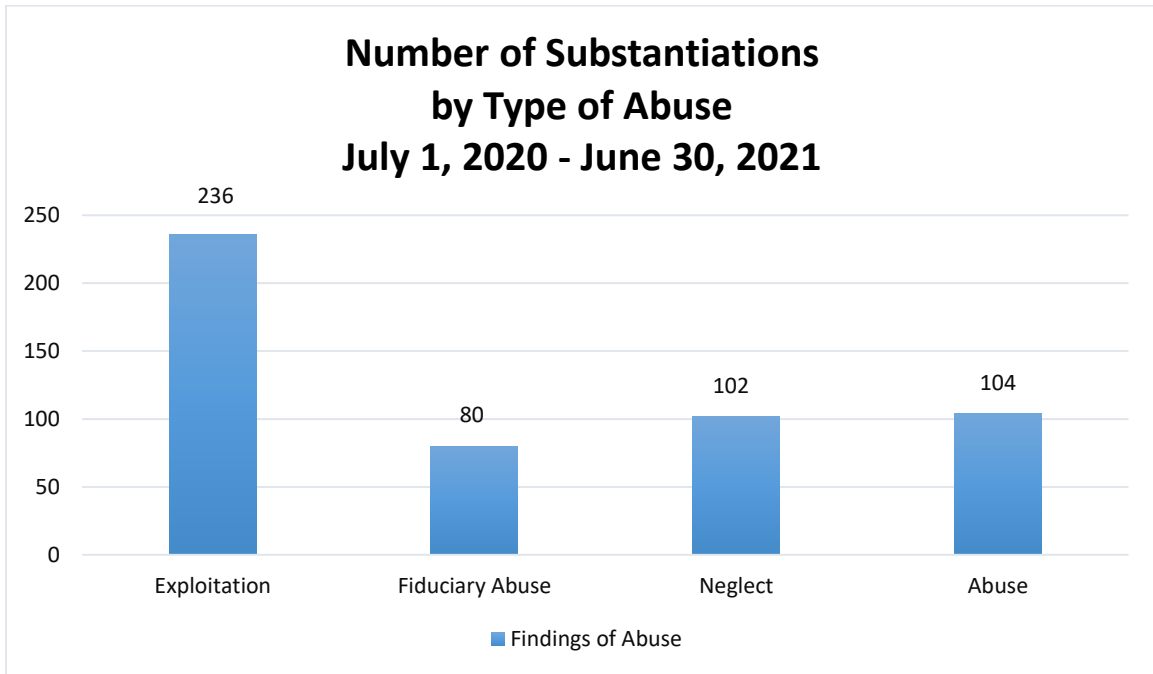


The numbers reflected in the total substantiated findings are indicative of a finding with one suspect and one victim. If a finding is received containing more than one suspect, the unit opens one case respectively for each finding for the sole purpose of accurate reporting. The unit continues to work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



There are four categories of substantiation as used by DCF, KDADS and KDHE; abuse, neglect, exploitation, and fiduciary abuse. These vary significantly from the seven allegations 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.

**Substantiations, continued**



**SUBSTANTIATION BREAKDOWN BY COUNTY AND AGENCY**

| COUNTY            | KDADS | DCF | KDHE | TOTAL |
|-------------------|-------|-----|------|-------|
| Allen County      | 0     | 4   | 0    | 4     |
| Anderson County   | 0     | 0   | 0    | 0     |
| Atchison County   | 0     | 0   | 0    | 0     |
| Barber County     | 0     | 0   | 0    | 0     |
| Barton County     | 0     | 10  | 0    | 10    |
| Bourbon County    | 0     | 2   | 0    | 2     |
| Brown County      | 0     | 0   | 0    | 0     |
| Butler County     | 1     | 15  | 0    | 16    |
| Chase County      | 0     | 0   | 0    | 0     |
| 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     | 4   | 0    | 4     |
| Cloud County      | 2     | 10  | 0    | 12    |
| Coffey County     | 0     | 0   | 0    | 0     |
| Comanche County   | 0     | 0   | 0    | 0     |
| Cowley County     | 0     | 7   | 0    | 7     |
| Crawford County   | 0     | 6   | 0    | 6     |
| Decatur County    | 0     | 0   | 0    | 0     |
| Dickinson County  | 0     | 6   | 0    | 6     |
| Doniphan County   | 0     | 0   | 0    | 0     |
| Douglas County    | 0     | 9   | 0    | 9     |
| Edwards County    | 0     | 0   | 0    | 0     |

## Substantiations, continued

| COUNTY             | KDADS | DCF | KDHE | TOTAL |
|--------------------|-------|-----|------|-------|
| Elk County         | 0     | 2   | 0    | 2     |
| Ellis County       | 0     | 14  | 0    | 14    |
| Ellsworth County   | 0     | 2   | 0    | 2     |
| Finney County      | 0     | 1   | 0    | 1     |
| Ford County        | 0     | 3   | 0    | 3     |
| Franklin County    | 0     | 2   | 0    | 2     |
| Geary County       | 0     | 9   | 0    | 9     |
| Gove County        | 0     | 1   | 0    | 1     |
| Graham County      | 0     | 1   | 0    | 1     |
| Grant County       | 0     | 0   | 0    | 0     |
| Gray County        | 0     | 0   | 0    | 0     |
| Greeley County     | 0     | 1   | 0    | 1     |
| Greenwood County   | 0     | 3   | 0    | 3     |
| Hamilton County    | 0     | 0   | 0    | 0     |
| Harper County      | 0     | 6   | 0    | 6     |
| Harvey County      | 0     | 7   | 0    | 7     |
| Haskell County     | 0     | 0   | 0    | 0     |
| Hodgeman County    | 0     | 2   | 0    | 2     |
| Jackson County     | 0     | 3   | 0    | 3     |
| Jefferson County   | 0     | 3   | 0    | 3     |
| Jewell County      | 0     | 0   | 0    | 0     |
| Johnson County     | 11    | 57  | 0    | 68    |
| Kearny County      | 0     | 0   | 0    | 0     |
| Kingman County     | 0     | 0   | 0    | 0     |
| Kiowa County       | 0     | 0   | 0    | 0     |
| Labette County     | 0     | 5   | 0    | 5     |
| Lane County        | 0     | 0   | 0    | 0     |
| Leavenworth County | 0     | 9   | 0    | 9     |
| Lincoln County     | 0     | 2   | 0    | 2     |
| Linn County        | 0     | 0   | 0    | 0     |
| Logan County       | 0     | 1   | 0    | 1     |
| Lyon County        | 0     | 4   | 0    | 4     |
| Marion County      | 0     | 0   | 0    | 0     |
| Marshall County    | 0     | 1   | 0    | 1     |
| McPherson County   | 0     | 10  | 0    | 10    |
| Meade County       | 0     | 0   | 0    | 0     |
| Miami County       | 4     | 5   | 0    | 9     |
| Mitchell County    | 0     | 5   | 0    | 5     |
| Montgomery County  | 0     | 5   | 0    | 5     |
| Morris County      | 0     | 1   | 0    | 1     |
| Morton County      | 0     | 0   | 0    | 0     |
| Nemaha County      | 0     | 1   | 0    | 1     |
| Neosho County      | 0     | 2   | 0    | 2     |
| Ness County        | 0     | 0   | 0    | 0     |
| Norton County      | 3     | 2   | 0    | 5     |



**Substantiations, continued**

| <b>COUNTY</b>       | <b>KDADS</b> | <b>DCF</b> | <b>KDHE</b> | <b>TOTAL</b> |
|---------------------|--------------|------------|-------------|--------------|
| Osage County        | 0            | 1          | 0           | 1            |
| Osborne County      | 0            | 6          | 0           | 6            |
| Ottawa County       | 0            | 1          | 0           | 1            |
| Pawnee County       | 0            | 2          | 0           | 2            |
| Phillips County     | 0            | 0          | 0           | 0            |
| Pottawatomie County | 0            | 2          | 0           | 2            |
| Pratt County        | 0            | 0          | 0           | 0            |
| Rawlins County      | 0            | 0          | 0           | 0            |
| Reno County         | 0            | 12         | 0           | 12           |
| Republic County     | 0            | 0          | 0           | 0            |
| Rice County         | 0            | 6          | 0           | 6            |
| Riley County        | 0            | 10         | 0           | 10           |
| Rooks County        | 0            | 1          | 0           | 1            |
| Rush County         | 0            | 0          | 0           | 0            |
| Russell County      | 0            | 4          | 0           | 4            |
| Saline County       | 0            | 32         | 0           | 32           |
| Scott County        | 0            | 1          | 0           | 1            |
| Sedgwick County     | 7            | 61         | 0           | 68           |
| Seward County       | 0            | 2          | 0           | 2            |
| Shawnee County      | 3            | 32         | 0           | 35           |
| Sheridan County     | 0            | 1          | 0           | 1            |
| Sherman County      | 0            | 8          | 0           | 8            |
| 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       | 0            | 5          | 0           | 5            |
| Thomas County       | 0            | 4          | 0           | 4            |
| Trego County        | 0            | 5          | 0           | 5            |
| Wabaunsee County    | 0            | 0          | 0           | 0            |
| Wallace County      | 0            | 2          | 0           | 2            |
| Washington County   | 0            | 1          | 0           | 1            |
| Wichita County      | 0            | 0          | 0           | 0            |
| Wilson County       | 0            | 3          | 0           | 3            |
| Woodson County      | 0            | 0          | 0           | 0            |
| Wyandotte County    | 0            | 19         | 0           | 19           |
| <b>TOTALS</b>       | <b>31</b>    | <b>467</b> | <b>0</b>    | <b>498</b>   |

# Investigations and Prosecutions

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## ELDER AND DEPENDENT ADULT ABUSE

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One of the most important changes of the July 1, 2016, legislative amendments is the Unit's ability to assist in criminal investigations and prosecutions. In 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 15 elder and dependent adult abuse cases. Law enforcement agents located within FALD also participated in investigating 34 cases related to elder and dependent abuse as well as general white-collar fraud.

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## SECURITIES FRAUD

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In 1911, the Kansas Legislature passed the nation's first "blue sky" statute — a state law designed to provide for state regulation over securities and to protect the public from fraudulent investment schemes. Kansas' blue sky statutes are now codified as the Kansas Uniform Securities Act (K.S.A. 17-12a101 *et seq.*). As of July 1, 2017, the 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 12 securities fraud cases. Courts have ordered \$656,296.92 in restitution related to cases during the past fiscal year.

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## INSURANCE FRAUD

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

The types of insurance fraud commonly prosecuted include staged accident claims, false bodily injury claims, and mysterious disappearance claims. In many staged accident claims, an individual is involved in a car accident, but does not have insurance for their vehicle. To obtain coverage for the accident, the individual

## **Investigations and Prosecutions, continued**

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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 21 insurance fraud cases. Courts have ordered \$104,956.62 in restitution and \$7,000 in fines related to cases during the past fiscal year.

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## **TAX FRAUD**

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On March 13, 2018, the 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 35 cases. Courts have ordered \$2,497.91 in restitution and \$6,250 in fines related to cases during the past fiscal year.

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## **WORKERS COMPENSATION FRAUD**

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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, \$3,070.87 in restitution and \$158,120.17 in fines and fees related to administrative workers compensation cases.

## Investigations and Prosecutions, continued

### 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 six general white collar fraud cases. Courts have ordered \$16,178 in restitution and \$2,500 in fines related to cases during the past fiscal year.

### CASE ACTIVITY JULY 1, 2020 TO JUNE 30, 2021

|   | ANE | Insurance | Revenue | Securities | Other |
|---|-----|-----------|---------|------------|-------|
| <b>Cases Pending</b>                          | 15  | 21        | 35      | 12         | 6     |
| <b>New Cases Filed</b>                        | 2   | 10        | 10      | 0          | 1     |
| <b>Cases Resulting in Conviction</b>          | 1   | 5         | 9       | 3          | 2     |
| <b>Cases Resulting in Acquittal</b>           | 0   | 0         | 0       | 0          | 0     |
| <b>Cases Dismissed</b>                        | 0   | 0         | 0       | 0          | 1     |
| <b>Convictions Resulting in Probation</b>     | 0   | 3         | 9       | 2          | 2     |
| <b>Convictions Resulting in Incarceration</b> | 1   | 0         | 0       | 1          | 0     |
| <b>Convictions Pending Sentence</b>           | 0   | 2         | 1       | 0          | 0     |
| <b>Cases Resulting in Diversion</b>           | 1   | 1         | 5       | 0          | 0     |

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

## Investigations and Prosecutions, continued

### RECOVERIES

|  | <b>Restitution</b>  | <b>Fines and Fees</b> |
|--|---------------------|-----------------------|
| <b>Elder and Dependent Adult Abuse</b>       | \$0.00              | \$0.00                |
| <b>Securities Fraud</b>                      | \$656,296.00        | \$0.00                |
| <b>Insurance Fraud</b>                       | \$104,956.62        | \$7,000.00            |
| <b>Revenue</b>                               | \$2,497.91          | \$6,250.00            |
| <b>Workers Compensation</b>                  | \$3,070.87          | \$158,120.17          |
| <b>Other</b>                                 | \$16,178.00         | \$2,500.00            |
| <b>Subtotals</b>                             | \$782,999.40        | \$173,870.17          |
| <b>Total Restitution, Penalties and Fees</b> | <b>\$956,869.57</b> |                       |

## 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 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.

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 July of 2020, Attorney General Schmidt announced a partnership with the University of Kansas' Kansas Law Enforcement Training Center 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 ANE Unit continued to provide these trainings live on-line during the current FY. 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 are available to law enforcement statewide, and are eligible for fulfilling continuing education requirements. The trainings cover financial, physical, and sexual abuse of elders and dependents.

In October of 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, as of June 30, 2021, 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
- Fran Oleen, Deputy Attorney General, Consumer Protection and Antitrust Division
- Payton Meader, Consumer Outreach Coordinator, Consumer Protection Division
- 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

## Education and Outreach, continued

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- Dr. Stephen Benson, Licensed Clinical Psychologist
- Kathy Taylor, Executive Vice President and General Counsel, Kansas Bankers Association
- Mary Tritsch, Associate State Director, AARP
- Barbara Conant, Public Policy Coordinator, Kansas Advocates for Better Care

The Council met multiple times during the FY. The main project of the Council was to research and draft legislation to create multi-disciplinary teams (MDT) across the state to investigate elder and dependent adult abuse, neglect, and exploitation. During the spring of 2021, House Bill 2114 was passed by the Kansas Legislature and signed into law by the Governor. HB 2114 creates elder and dependent adult abuse multi-disciplinary teams in every judicial district. It also creates a statewide coordinator to facilitate the convening of such teams. The coordinator is appointed by the Attorney General.

The MDT will include mandatory members from law enforcement, County or District Attorney Offices, social service agencies, and the Kansas Long Term Care Ombudsman. The purpose of the MDT will be to assist in the investigation and prosecution of elder abuse cases by coordinating both the civil and criminal investigations. It will also allow the investigating agencies to communicate with one another and to reach out to experts in fields such as banking, accounting, medicine, cognition, etc.

# 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:

- The unit received a law enforcement referral from DCF. The report stated the victim had hired the perpetrator to be her in-home caregiver. The perpetrator was currently licensed as a Certified Nurse Aide, however, had an employment prohibition on the Kansas Nurse Aide Registry preventing her from working in long term care facilities working around a vulnerable population. The unit also learned the perpetrator was on parole for criminal convictions consisting of aggravated robbery, aggravated battery and criminal damage to property. When the employment prohibition was discovered, the unit brought it to DCF's attention along with information that had been relayed from Law Enforcement. DCF indicated that they had followed up with Law Enforcement and the perpetrator's parole officer and learned there was a warrant for the perpetrator. The victim had indicated everyone had since moved out of her residence so there was no longer a safety concern for her.
- The unit was doing routine follow up with law enforcement on an unrelated case, and during the conversation, learned of a case involving a death from possible mistreatment. The unit found no information had been received from DCF involving this individual. The unit promptly followed up with DCF to find out why notification was never provided as required by statute. DCF could only provide that proper notification was not provided "due to worker error." The Unit followed up again a few months later to see if a substantiation had occurred, and learned that DCF had unsubstantiated based on results of the autopsy, the police report, and statements from the perpetrator. Worker error tends to be a provided answer for a number of cases which ultimately slip through the cracks and are never provided to the unit. It is unknown how many cases are assigned to DCF each year for investigation that the unit never knows about. Between high case load of DCF workers, and the social workers not doing all of their own work due to high case load, communication lines get crossed frequently and information does not get relayed to the appropriate agencies.
- In an attempt to close out a substantiation from KDADS, the unit found there was no employment prohibition on the Kansas Nurse Aide Registry. After following up with KDADS on why no prohibition had been found, KDADS indicated they, "dropped the ball." Although it isn't clear whether this perpetrator had gained employment at other facilities, there had been three facilities run background checks since the substantiation had been issued. This continues to be a problem with KDADS on many findings. Employment prohibitions are not placed on the registry in a timely manner, thus leaving opportunity for other vulnerable populations to be preyed upon. As a result, the perpetrator now has a prohibition on the nurse aide registry.
- During the massive COVID shut down of state agencies, the unit anticipated seeing a drop in the number of cases. However, it was surprised to learn a larger law enforcement agency in the state had advised DCF not to send notifications as they didn't have time to look at all of them. The unit met with DCF, this LE agency, and the local DA's office. It is unknown how long this process had been occurring. As a result of the meeting DCF resumed sending all forms of complaints which are believed to be criminal to not only the LE agency, but to the DA's office as well.



## Unit Interventions, continued

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- During this reporting period the unit received six law enforcement referrals alleging fiduciary abuse of a married couple by their daughter. Three of the referrals were sent to a county sheriff's department, two were sent to a different county police department, and the last was sent to both the sheriff's department and police department in two different counties. There were questions on where criminal jurisdiction fell on this case, as the residence was on the border between both counties. The unit had to follow-up with DCF to find out if they had made a substantiated finding yet, but was told DCF was not moving forward with their investigation at the request of law enforcement. One of the DCF investigations was unsubstantiated, yet the perpetrator had taken around \$12,000 from the home equity in loans, and spent thousands of dollars at a casino over the course of several years. The wife was diagnosed with Alzheimer's at some point, but did not appear to lack capacity, and said she was okay with the spending being done by the perpetrator. When the unit followed up with law enforcement on these investigations, it appeared there was no current active investigation being done, which appeared to contradict what was being said by DCF. Local authorities ultimately requested that the unit investigate and prosecute this case. The investigation is still ongoing at this time.

## Significant Cases

### **State v. Ora Munger – Barber County**

Munger was convicted of one count of attempted second-degree murder, three counts of aggravated robbery, two counts of mistreatment of an elder person and one count of criminal damage in the amount over \$1,000 but less than \$25,000. These convictions arose from a joint investigation by the Kansas Bureau of Investigation and the Barber County Sheriff's Office. Munger committed the crimes at a home in rural Barber County. He knocked on the door and when one of the two elder residents answered the door he pulled a fire arm and demanded money. When the son of the residents arrived unexpectedly at the house Munger pointed the gun at the son and pulled the trigger. The gun failed to fire and the son was able to subdue Munger until police arrived. The court sentenced Munger to 351 months in prison and this sentence was ordered consecutive to 152-month prison sentence the defendant previously received for convictions in Sumner County.

### **State v. David Brown – McPherson County**

Brown worked for a Tennessee company that purportedly sold interests in oil leases, and his responsibilities included cold-calling potential investors. He eventually convinced a Kansas elder person to invest \$25,000 into a joint venture for oil wells. The bulk of that money, however, was spent by the company owner for personal use; some of the Kansas investor's funds also went to pay "investment returns" to previous, unrelated investors. Brown was convicted of selling an unregistered security. The court ordered Brown to pay \$25,000 in restitution to the Kansas victim.

### **State v. Daniel Madasz – Johnson County**

Madasz was employed by Skytec Security Services, a security/alarm company, to identify investors and raise capital for the Skytec businesses. Madasz, who operated a Kansas financial planning business, persuaded two Kansans to invest. One investor, an elder person, invested \$200,000; the second invested \$350,000. Madasz did not inform the Kansans that he was being paid to solicit investments. Madasz also did not disclose that he had previously brought in several other investors who were owed a total of more than \$500,000 in principal at the time of the sale to Kansas investors. Madasz convicted of two counts of securities fraud. He was sentenced to 12 months in prison, followed by 24 months of supervised release, and ordered to pay a total of \$550,000 in restitution.

### **State v. Mychael Hauss - Smith County**

Hauss was convicted of one count fraudulent act and one count of forgery. An investigation by the Kansas Insurance Department revealed Hauss had a liver transplant in 2015 and had purchased a supplemental insurance policy to cover secondary costs to the transplant. Hauss then submitted a second claim with the supplemental insurance company for another alleged transplant in 2017 which was also paid. However, investigators discovered Hauss never actually received a second liver transplant and the second claim was therefore determined to be false. As part of the second claim, Hauss had also forged a doctor's signature. Sentencing for Hauss was still pending at the end of the FY.

### **State v. Jessica Schwerdt – Shawnee County**

Schwerdt was convicted of one count of misdemeanor theft. The conviction arose from an investigation by the Shawnee County Sheriff's Office. Schwerdt worked for Shawnee County in their Human Resource Department. She embezzled money by taking cash which was intended for retiree insurance payments. The court sentenced the defendant to 12 months of probation with an underlying jail sentence of 12 months and ordered the defendant to pay \$13,216 in restitution to Shawnee County.

## 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 next year, the OAG will be hiring the statewide MDT coordinator authorized by HB 2114 and they will be part of FALD. The MDT coordinator will be tasked with formulating a plan to begin to establish MDT's in each judicial district. In establishing this plan the coordinator will be communicating with local officials and with the statewide Elder and Dependent Adult Abuse Prevention Council. This will ensure each MDT fits the particular needs of the local jurisdiction while still fulfilling statewide goals.

FALD and the ANE Unit will continue to conduct education and public outreach. This will include continuing our relationship with KLETC in providing live on-line training to law enforcement officers from the around the state. The Elder and Dependent Adult Abuse Prevention Council will also help accomplish this goal by focusing on ways to inform the general public on the potential forms of abuse and by educating them of existing resources designed to prevent and stop such abuse.

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

## 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.

## **Statutory Authority, continued**

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### **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.

## Statutory Authority, continued

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(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

## Statutory Authority, continued

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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. [See Revisor's Note]** (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, an emergency medical service provider, 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. 2020 Supp. [39-2001](#) et seq., 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 that 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](#) through [39-1410](#), 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



## Statutory Authority, continued

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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. 2020 Supp. [39-2001](#) et seq., 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; L. 2018, ch. 33, § 2; L. 2019, ch. 64, § 5; June 6.

### Revisor's Note:

Section was amended twice in the 2018 session, see also [39-1431a](#).

Section was amended twice during the 2019 session, see also [39-1431b](#).

**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, a governmental assistance provider or an emergency medical service provider who has reasonable cause to believe that a resident is being or has been abused, neglected or exploited, or is in a condition that 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 K.S.A. [39-1401](#)(a)(1), and amendments thereto, to the department of health and environment with respect to residents defined under K.S.A. [39-1401](#)(a)(2), 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 that 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 that 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 that is the result of such abuse, neglect or

## Statutory Authority, continued

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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 K.S.A. [39-1401\(a\)\(1\)](#), and amendments thereto, to the department of health and environment with respect to residents defined under K.S.A. [39-1401\(a\)\(2\)](#), and amendments thereto, and to the Kansas department for children and families with respect to all other residents. Reports made to the incorrect department under this section shall be referred by such department 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; L. 2018, ch. 33, § 1; L. 2019, ch. 64, § 4; June 6.

## 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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