

REPORT ON

**ADULT PROTECTIVE SERVICES:
IDENTIFYING AND PREVENTING
ADULT ABUSE, NEGLECT, AND
EXPLOITATION**

**TO THE SECRETARY OF HEALTH AND HUMAN
RESOURCES AND THE JOINT COMMISSION ON
HEALTH CARE**



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EXECUTIVE SUMMARY

The charge of this study originates from two actions taken during the 2002 session of the General Assembly:

- Senator William Bolling, Chairman of the Joint Commission on Health Care, requested by letter that The Honorable Jane H. Woods, the Commonwealth's Secretary of Health and Human Resources, examine the under-reporting of adult abuse, neglect, and exploitation in Virginia and improve the coordination between Virginia's regulatory and Adult Protective Services (APS) functions.
- Senator Linda T. Puller sponsored Senate Bill (SB) 454, which would have established an APS central registry to be implemented, maintained, and housed by the Virginia Department of Social Services (the Department) within the Adult Services Programs Unit. The APS central registry, as outlined in the SB 454, would have contained information on persons employed by a licensed facility if the results of an APS investigation found that that person had abused, neglected, or exploited an elderly person or an adult with a disability. Following discussions by APS professionals, aging advocates, and interested public and private stakeholders, Senator Puller agreed to strike SB 454 from the docket of the 2002 General Assembly. It was stricken in the Rehabilitation and Social Services Committee at Senator Puller's request. Senator Emmet W. Hanger, Jr., Chair of that committee, requested that the Department of Social Services initiate a comprehensive educational program for all persons mandated to report incidents of adult abuse, neglect, and exploitation in exchange for striking SB 454 from the docket.

This study describes the Virginia Department of Social Services' APS Program. A summary of mandated reporter requirements is included, as well as initiatives that are underway to heighten awareness and reporting of adult abuse, neglect, and exploitation.

The best national estimate of the incidence and reporting of elder abuse and neglect is that only 16 percent of all incidences are reported to APS. Nationally, the number of unreported incidents is five times greater than the number of cases reported to APS (National Elder Abuse Incidence Study (NCAIS), 1998). Many adult abuse researchers have indicated that we have just seen the "tip of the iceberg" of adult abuse reported cases. Using national data on estimates of unreported abuse, this means that there could be another 58,000 cases of adult abuse, neglect, and exploitation that occur annually in Virginia that are not reported to APS.

The Department, in collaboration with the APS Mandated Reporter Advisory Committee (that was established as part of this study), has several recommendations to encourage statewide reporting of adult abuse, neglect, and exploitation and to prohibit individuals who have abused adults from working with the most vulnerable of our population. Programs that demonstrate collaborative, multidisciplinary efforts are most successful in discovering, preventing, and prosecuting adult abuse, neglect, and exploitation. The recommendations are:

Mandated Reporter Education and Training

RECOMMENDATION #1: Develop and implement targeted, interagency mandated reporting educational programs and training modules for mandated reporter groups with a special emphasis on health professionals, mental health professionals, service providers, and law enforcement.

RECOMMENDATION #2: Add adult abuse reporting requirements to the Board of Nursing Facility Administrators as part of the nursing facility administrators' licensing curriculum.

RECOMMENDATION #3: Enhance the Department's APS web page to include specific information about reporting adult abuse, signs of adult abuse, neglect, and exploitation, and other information for mandated reporters and other interested parties.

RECOMMENDATION #4: Provide information on adult abuse and mandated reporting to the Department of Health Professions and its boards and other mandated reporter organizations through print and website technology to educate health professionals who are mandated reporters.

RECOMMENDATION #5: Train local law enforcement agencies on the importance of proper response when assisted living and nursing facilities report suspected abuse and educate judges through the state bar association on matters related to adult abuse.

RECOMMENDATION #6: Require that long-term care facility administrators be responsible for ensuring that their staffs are trained on adult abuse and neglect reporting and documenting that the training has been conducted. Prohibit them from screening reports or otherwise withholding reports from APS or from establishing any rules, guidelines, or criteria, or standards other than direct reports of all suspected adult abuse, neglect, and exploitation. Prohibit retaliation against employees who do report suspected abuse, neglect, or exploitation.

Interagency Coordination

RECOMMENDATION #7: Develop and implement an interagency memorandum of understanding to document support of elder abuse reporting and prevention programs by the Departments of Social Services; Health, Health Professions; Mental Health, Mental Retardation and Substance Abuse Services; Protection and Advocacy; and Aging, with the understanding that each agency would be able to exercise discretion when its resources would be adversely affected.

RECOMMENDATION #8: Compile reporting requirements and develop a reporting protocol guide of adult abuse reporting protocols in the Commonwealth for all agencies of the Health and Human Resources Secretariat. Ensure that the definition of adult abuse found in the *Code of Virginia*, § 63.2-100, is applied consistently and appropriately.

RECOMMENDATION #9: Continue bi-annual meetings of the interdisciplinary advisory committee focusing on APS issues of awareness and prevention.

RECOMMENDATION #10: Increase the availability of in-home services (e.g., home-based care, meal programs) to vulnerable adults through the Department of Social Services and other agencies providing services to the elderly and adults with a disability.

Enforcement of Sanctions

RECOMMENDATION #11: Amend the *Code of Virginia*, § 63.2-1606(H) to allow the Commissioner of the Department of Social Services to assess civil penalties currently listed in the law for persons who are determined to have failed to make a required APS report or notification according to law within 24 hours of having the reason to suspect. Fines received would be designated for use in APS educational and training programs.

RECOMMENDATION #12: Recommend an enforcement provision for non-reporting where not already provided by law (i.e., treating failure to report abuse as “unprofessional conduct,” actionable by the respective health regulatory board).

Public Awareness

RECOMMENDATION #13: Develop and implement a sustained statewide strategic communications program designed to educate the general public about adult abuse, including educating the media about adult abuse and prevention issues, and drafting press releases for local agencies to use in May for Adult Abuse Awareness Month.

RECOMMENDATION #14: Train at least 600 staff of financial institutions on the Virginia Financial Institution Reporting (FIR) Project.

Data Collection System

RECOMMENDATION #15: Develop and manage an automated data collection system for adult abuse, neglect, and exploitation cases. Virginia currently does not have good data on injuries or deaths related to adult abuse and neglect. This data gap serves to inhibit the ability to communicate to policymakers and the public and does not allow the State to validate the scope of the issue of adult abuse.

For Further Study

RECOMMENDATION #16: Provide funding for a comprehensive study of the need, costs, benefits, and uses of an APS central registry, including in-depth analyses of experiences in other states by updating the 1997 study by the Department of Social Services. The study should be directed by the Joint Legislative Audit and Review Commission or the Joint Commission on Health Care. APS staff from the Department of Social Services could provide staff support to the study effort as needed. Once the study is completed, the Department of Social Services would move forward with any recommendations resulting from the study.

RECOMMENDATION #17: Consider the establishment of an Elder Mortality Review Committee to review cases of unattended deaths of the elderly in long-term care facilities as a means to identify trends, direct training needs, and develop recommendations that will protect the health, safety, and well-being of all elders in a long-term care facility.

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	
ACKNOWLEDGEMENTS	
I. INTRODUCTION.....	1
II. BACKGROUND.....	1
III. ADULT PROTECTIVE SERVICES IN VIRGINIA.....	2
A. Goal of APS.....	2
B. Target Population.....	2
C. Statutory Authority.....	3
D. Definitions.....	3
E. Adult Abuse Is a Crime.....	4
F. Funding.....	5
IV. ADULT ABUSE PREVENTION IN THE U.S.	5
V. MANDATORY REPORTING.....	6
VI. UNDER-REPORTING OF ADULT ABUSE.....	7
A. National Elder Abuse Incidence Study.....	7
B. The Iceberg Theory.....	8
C. Non-Reporting by Mandated Reporters.....	9
VII. CENTRAL REGISTRY.....	10
A. National Association of State Units on Aging Registry Study.....	10
B. General Accounting Office Study.....	11
C. Department of Social Services' Registry Study.....	12
D. Florida's Experience.....	13
E. Implementing an APS Registry in Virginia.....	13
VIII. OTHER ADULT ABUSE INITIATIVES.....	10
A. Adult Abuse Education Initiative.....	15
B. Mortality Review Committee.....	16
C. Reporting Requirements.....	17
D. GAO Study Recommendations.....	17
IX. VIRGINIA'S ADULT ABUSE PREVENTION STRATEGIES.....	18
X. RECOMMENDATIONS.....	23
XI. CONCLUSION.....	25
NOTES	
APPENDICES	

ADULT PROTECTIVE SERVICES

I. INTRODUCTION

The growth in the elder and physically and mentally impaired populations has affected every segment of the social, political and economic landscape in America. The special needs of our aging population and the growth in this population have served to heighten national awareness. Despite a trend toward an increased emphasis on a quality aging experience and a commitment to improving the lives of the elderly and adults who have a disability, abuse, neglect, and exploitation of the elderly has gone largely unidentified and unnoticed. Most incidences of adult abuse, neglect, and exploitation occur in the adult's home and as a result of self-neglect or neglect by a relative.

Early identification of possible abuse, neglect, and exploitation of adults, coupled with the opportunity to protect adults and provide needed services, will improve quality of care and life to vulnerable adults in the Commonwealth. Both nationally and throughout the Commonwealth, a particular area of concern related to the protection and well-being of the elderly and adults with a disability is that of identifying and preventing adult abuse. States vary significantly in how they receive reports of abuse, how perpetrators are handled, and how penalties are imposed. This report examines current practices and issues in the identification and reporting of adult abuse, neglect, and exploitation and offers recommendations on how Virginia's vulnerable adults might best be served and protected.

II. BACKGROUND

During the 2002 session of the General Assembly, Senator Linda T. Puller sponsored Senate Bill (SB) 454, which would have established an adult protective services (APS) central registry to be implemented, maintained, and housed by the Virginia Department of Social Services (the Department) within the Adult Services Programs' Unit. The APS central registry, as outlined in SB 454, would have contained information on persons employed by a licensed facility if the results of an APS investigation found that that person had abused, neglected, or exploited an elderly person or an adult with a disability.

On January 15, 2002, Senator Puller facilitated a discussion concerning SB 454. Following the discussion, Senator Puller agreed to strike SB 454 from the docket of the 2002 General Assembly. It was stricken January 18, 2002, at Senator Puller's request. In a letter dated February 2002, Senator Emmet W. Hanger, Jr., Chair of the Rehabilitation and Social Services Committee, requested that VDSS initiate a comprehensive educational program for all persons who are mandated to report incidents of adult abuse, neglect, and exploitation.

In addition, Senator William Bolling, Chairman of the Joint Commission on Health Care, requested that The Honorable Jane H. Woods, the Commonwealth's Secretary of Health

and Human Resources, examine the under-reporting of adult abuse, neglect, and exploitation in Virginia and improve the coordination between Virginia's regulatory and APS functions. A copy of the correspondence with legislators is found in Appendix A.

To consider the issues of mandatory reporting, the development of a central registry, and other issues, the Department formed an interdisciplinary advisory committee to discuss the issues and recommend an action plan. The advisory committee includes representatives from the Departments of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS); Health Professions; Health; and Social Services; the Alzheimer's Association; Virginia Association of Counties; Virginia Hospital and Healthcare Association; State Long-Term Care Ombudsman; Virginia Commonwealth University; Virginia Coalition for the Aging; Virginia Health Care Association; Virginia Association of Non-Profit Homes for the Aging; the Office of the Attorney General; and local government.

III. ADULT PROTECTIVE SERVICES IN VIRGINIA

A. Goal of APS

The goal of APS is to protect a vulnerable adult's life, health, and property. When the vulnerable adult is incapable of making informed decisions, APS provides care with the least disruption of lifestyle, and with full due process protection. Older adults who are mistreated are 3.1 times more likely to die within the next decade than those of the same age with no reported mistreatment (Lachs, 1998). In Virginia, adult protective services are provided by the Department through 121 local departments of social services.

B. Target Population

Adult protective services are provided to any person aged 60 and over and adults aged 18 and over who are incapacitated. The *Code of Virginia*, § 63.2-1603, defines an "incapacitated person" as "any adult who is impaired by reason of mental illness, mental retardation, physical illness or disability, advanced age or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate, or carry out responsible decisions concerning his or her well-being." Please see Appendix B for text of the *Code of Virginia* related to APS.

While most of the available adult abuse research focuses on the elderly, in Virginia, APS serves both the elderly and adults with disabilities. Almost three-fourths of the reports were for persons 60 years of age and older with the remaining 25 percent for adult 18 years of age and older who have a disability. About two-thirds of the reports were for females, and over 70 percent of the reports were for Caucasians (*Adult Services Annual Survey*, 2002).

Table 1 is a demographic summary of persons for whom an APS report was made in FY 2002.

TABLE 1: APS REPORTS AT A GLANCE, FY 2002

	CATEGORY	NUMBER	PERCENTAGE
AGE	60 years and older	8,118	72%
	18-59 years with a disability	3,188	28%
SEX	Female	7,315	65%
	Male	3,991	35%
RACE	White	8,245	71%
	African-American	2,915	27%
	Other	146	1%
TOTAL		11,306	
		reports received	

Source: *Adult Services Annual Survey, 2002*

In FY 02, over 11,000 APS reports were received and investigated by local departments of social services. Of these, 2,754 (almost 24 percent) were facility-based reports (nursing facility, assisted living facility, or facility operated by DMHMRSAS). The following table describes living arrangements of persons for whom an APS report was made in FY 2002. The majority of reports are for adults who reside with a spouse or other relative (38 percent) or who live alone (31 percent).

TABLE 2. LIVING ARRANGEMENTS OF APS REPORTS, FY 2002

LIVING ARRANGEMENT	NUMBER	PERCENTAGE
With spouse/relative	4,309	38%
Alone	3,490	31%
Nursing facility	1,394	12%
Assisted living facility	1,019	9%
Other ¹	741	7%
DMHMRSAS facilities	341	3%
Adult Foster Care	12	<1%
TOTAL	11,306	

¹The category "other" is not defined in VACIS reports.

C. Statutory Authority

In 1974, the *Code of Virginia (Code)*, § 63.2-1605, was amended to provide the statutory authority for providing APS in Virginia. Local departments of social services are authorized to receive and investigate reports of abuse, neglect, and exploitation across all care settings and to provide protective services to the extent that federal, state, and local funding is available. In 1977, the protective services provision of the *Code* was amended to allow a court to authorize "involuntary protective services" (i.e., services for adults who need protection and who do not have the ability to consent to the necessary

services). APS professionals at the local department of social services receive and investigate reports and directly provide support and stabilization services including case management, family/caretaker support, and collaboration with other agencies to ensure that the adult's needs are met.

D. Definitions

ABUSE is defined by the *Code of Virginia*, §63.2-100, as “the willful infliction of physical pain, injury or mental anguish or unreasonable confinement.” Abuse includes battery and other forms of physical violence including, but not limited to, hitting; kicking; burning; choking; scratching; rough-handling; cutting; biting; etc. It includes sexual assault; inflicting pornography; voyeurism; exhibitionism; and other forms of forced sexual activity on an elder or an adult with disabilities and any sexual activity with an adult who is unable to understand or give consent. It includes the control of an adult through the use of threats and intimidation and through the abuse of a relationship of trust.

NEGLECT is defined by the *Code of Virginia*, §63.2-100, as “an adult living under such circumstance that he or she is not able to provide for himself or is not being provided such services as are necessary to maintain his/her physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being.” This definition incorporates both those who are self-neglected, i.e., living under such circumstances that he/she is not able to provide for himself/herself, and those whose need for physical and mental health services are not being provided by another person. Indicators of neglect include, but are not limited to, malnourishment; dehydration; the presence of pressure ulcers; inadequate personal hygiene; inadequate and/or inappropriate clothing; inadequate or inappropriate supervision; extreme filth of person or home; severe pest/rodent infestation; offensive odors; inadequate heat; no fuel; no electricity; no refrigerator; or untreated physical or mental health problems. Abandonment is also a form of neglect.

EXPLOITATION is defined by the *Code of Virginia*, §63.2-100, as “the illegal use of an incapacitated adult or his resources for another's profit or advantage.” Exploitation, or financial abuse, is accomplished by the use of covert, subtle, and deceitful means. It is usually a pattern of behavior rather than a single episode. Financial exploitation includes, but is not limited to, the crimes of larceny; embezzlement; theft by false pretenses; burglary; forgery; false impersonation; and extortion. Indicators that a person is being financially exploited include, but are not limited to, activity in that adult's bank account that is erratic, unusual, or uncharacteristic of that person; the person's automatic teller card is used and the account owner is unable to use the card; new acquaintances have taken up residence in the elderly person's home; change in the elder's property titles, will, or other documents, particularly if the person is confused and/or the documents favor new acquaintances; a power of attorney is executed by a confused adult; documents and/or property is missing; the adult is being evicted and believes he/she owns the house; or the adult's mail has been redirected to a different address.

E. Adult Abuse Is a Crime

The 1991 session of the Virginia General Assembly passed legislation that created §18.2-369 in the *Code of Virginia* and established for the first time that abuse and neglect of an incapacitated adult is a crime. Under this section, any person who has responsibility for the care, custody, or control of an incapacitated adult and who abuses or neglects that incapacitated adult shall be guilty of a Class 1 misdemeanor. A person who is convicted a second or subsequent time under this statute shall be guilty of a Class 6 felony. In any event, if the abuse or neglect results in serious bodily injury or disease to another, the offense shall be punishable as a Class 6 felony. Serious bodily injury or disease includes, but is not limited to, disfigurement; a fracture; a severe burn or laceration; mutilation; maiming; or life-threatening internal injuries or conditions, whether or not caused by trauma.

F. Funding

APS has been a service of local departments of social services since 1974 and has been a mandated program since 1983. However, APS was unfunded until the 1999 General Assembly appropriated partial funding to cover services and program administration at the local level. Funding of \$5.5 million (\$4.4 million in State funds and \$1.1 in local match) is required to fully fund the program at the local level. Funding in the amount of \$1.0 million (\$800,000 in State Funds and \$200,000 in local match) has been allocated for APS in each fiscal year since then.

IV. ADULT ABUSE PREVENTION IN THE UNITED STATES

For the past 20 years, Congress has heard from professionals, family members, and others about the need for a coordinated federal effort to combat adult abuse. Hearings have been held and reports have been issued. Still, in 2002, most experts agree that the federal effort against adult abuse lags 30 years behind the efforts to combat child abuse and domestic violence.

There has yet to be federal legislation addressing adult abuse. In 1974, the Child Abuse Prevention and Treatment Act was implemented and heralded as an important milestone in the recognition of child abuse. The law brought a national focus to the issue and helped ensure consistent definitions and standards in state child protection programs. With no similar federal legislation addressing adult abuse, state APS programs vary widely in structure and administration. There are variations in the types and definitions of abuse among states along with differences in age of the eligibility for services and program reporting requirements. Many experts in the field of adult abuse prevention compare the current knowledge of and response to adult abuse with the state of child abuse work a generation ago (U.S. Senate Special Committee on Aging, untitled "white paper," 2002).

Federal funding (\$153.5 million) to fight adult abuse represents only a fraction of all federal spending on family abuse issues. Last year, \$6.7 billion was spent on child abuse prevention efforts, and \$520 million was spent on programs combating violence against women. The largest source of federal funding for elder abuse is the Social Services Block Grant (SSBG) program under Title XX of the Social Security Act. SSBG funds are used to support state APS programs. However, there are no minimum funding requirements, and SSBG funds do not require any uniform statistical reporting of data or definitions of abuse. In addition, the total SSBG funding has declined substantially in recent years, and State funding varies widely (U.S. Senate Special Committee on Aging, untitled “white paper,” 2002).

Senator John Breaux, Chair of the U.S. Senate Special Committee on Aging, is leading an ongoing effort to ensure elder justice. The committee is studying matters pertaining to problems and opportunities of older people, particularly those involving reports of senior fraud, abuse, and neglect.

V. MANDATORY REPORTING

To help identify victims of adult abuse and provide needed prevention and assistance, virtually every state has passed laws concerning the reporting of elder abuse. Called mandatory reporting laws, they require that specific categories or groups of professionals, such as physicians and social workers, report known or suspected incidents of adult abuse to authorities. While requiring mandatory reporting, most such reporting laws also grant immunity from criminal and civil liability if the report is made in good faith.

In the *Code of Virginia*, § 63.2-1606.A., certain persons are mandated to report to the local department of social services immediately upon suspecting abuse, neglect, or exploitation. Virginia’s mandated reporters include:

- Any person licensed to practice medicine or any other of the healing arts;
- Any hospital resident or intern;
- Any person employed in the nursing profession;
- Any person employed by a public or private agency or facility and working with adults;
- Any person providing full-time or part-time care to adults for pay on a regularly scheduled basis;
- Any person employed as a social worker;
- Any mental health professional; and
- Any law-enforcement officer.

Virginia financial institutions (i.e., banks, credit unions, insurance companies, securities firms, and insurance companies) are authorized in the *Code of Virginia*, § 63.2-1606.D., to be voluntary reporters who may report suspected adult abuse, neglect, and exploitation without criminal or civil liability. Under voluntary reporting, persons are not required to report, but may report suspected incidences.

Persons identified as mandated reporters are also required to make available to the APS worker and the local department investigating the reported case of abuse, neglect or exploitation any records or reports that document the basis for the report. Persons who make a report or provide records or information or who testify in any judicial proceeding arising from a report are immune from any civil or criminal liability unless the reporter acted in bad faith or with a malicious purpose. In FY 2002, mandated reporters filed 53 percent of all reports. Persons who voluntarily made the reports filed the remaining 47 percent. The following table shows the source of all APS reports for FY 2002.

TABLE 3. SOURCE OF APS REPORTS FY 2002

SOURCE OF REPORTS	TOTAL REPORTS RECEIVED	PERCENTAGE OF REPORTS
Relative	1,631	14%
Other*	1,286	11%
Hospitals/Clinics**	1,041	9%
Departments of Social Services**	1,020	9%
Nursing Facility Staff**	980	8%
Self	896	8%
Friends/Neighbors	848	8%
DMHMRSAS**	720	6%
Home-health**	697	6%
Anonymous	577	5%
Law Enforcement**	472	4%
Physicians/Nurses**	349	3%
Area Agencies on Aging**	321	3%
Assisted Living Facility Staff**	280	2%
Health Departments**	72	1%
Companion Providers**	43	<1%
Clergy/Churches	41	<1%
Adult Day Care Staff**	32	<1%
TOTAL	11,306	100%

*“Other” not defined by the Department’s VACIS (Virginia Automated Computer Information System) reports.

**Denotes mandated reporters.

VI. UNDER-REPORTING OF ADULT ABUSE

Lack of reporting occurs across the spectrum of adult abuse cases. At home, families are reluctant to report. In institutional settings, residents and employees are slow to report. Fear of increased abuse or retaliation, social stigma, or lack of “whistleblower” protections are among the reasons for lack of reporting. Often the legal community is not interested in taking on adult abuse cases and is disinclined to prosecute (U.S. Senate

Special Committee on Aging, untitled “white paper,” 2002). Several studies have addressed the issue of under-reporting of adult abuse.

A. National Elder Abuse Incidence Study

In 1998, the National Center on Elder Abuse at the American Public Human Services Association released the National Elder Abuse Incidence Study (NEAIS). This Congressionally mandated study is the only national study ever undertaken on APS.

The study findings included the following:

- Approximately 551,000 adults were abused, neglected, or exploited in 1996.
- Family members were the perpetrators in 90 percent of the cases where a perpetrator was identified. In two-thirds of those cases, the perpetrator was the adult children or spouses.
- Females are abused at higher rate than males, even holding constant for their larger proportion in the aging population.
- The oldest elderly (aged 80 and over) are abused and neglected at two to three times their proportion of the elderly population.
- Only one in eight incidents of adult abuse is ever reported to the agency with the authority to intervene.

Based on this study, the best national estimate of the incidence of elder abuse and neglect is that 16 percent of all incidences are reported to APS. The remaining 84 percent never come to the attention of APS. As such, the number of unreported incidents is five times greater than the number of cases reported to authorities.

Nationally, the most frequent reporters of adult abuse are family members at 20 percent; hospitals, 17 percent; law enforcement, 11 percent; in-home providers, 8-10 percent; friends/neighbors, 8-10 percent; and physicians/nurses/clinics, 8-10 percent. Out-of-home service providers, banks, public health departments, and other reporters comprise the remaining reports (NEAIS and Elder Abuse Prevention Fact Sheet).

B. The Iceberg Theory

The “iceberg” theory of adult abuse has been accepted in the aging research community for over 20 years. The NEAIS study supports this theory, which states that official reporting sources receive reports only about the most visible types of abuse and neglect, but a large number of incidents go unidentified and unreported.

Nationally, there has been a substantial increase in the number of official APS reports over the past 10 years, and this has held true in Virginia. From 1986 to 1996, there was an increase of 150 percent in the number of reports to APS received by local departments of social services. It is difficult to determine if this is a result of increased educational efforts or a growing elder population. The percentage of substantiated APS reports has

remained relatively steady at around 60 percent. The following table is a summary of the number of APS investigations in the Commonwealth for the past five years.

TABLE 4. FIVE-YEAR REPORT ON THE NUMBER OF APS INVESTIGATIONS, FY 2002

	1998	1999	2000	2001	2002
Total Reports Investigated	10,286	10,648	10,996	10,942	11,306
Total Reports Substantiated	6,085	6,330	6,702	7,055	6,960
Percent of Reports Substantiated	59%	59%	61%	64%	62%

Source: *Adult Services Annual Program Report, 2002*

Adult abuse is even more difficult to detect than child abuse since the social isolation of some elderly persons increases both the risk of mistreatment and the difficulty of identifying the mistreatment. About one-fourth of elders live alone. In Virginia in FY 2002, approximately 46 percent of APS cases were self-neglect, and about 24 percent of all APS cases fall into the neglect category. Both case types are far less likely to be reported. These facts make studying incidences of adult abuse, neglect, and exploitation a unique challenge. The following table describes the categories of substantiated reports for Virginia in FY 2002.

TABLE 5. TYPES OF SUBSTANTIATED APS REPORTS, FY 2002

REPORT	NUMBER	PERCENTAGE
Self-neglect	3,175	46%
Neglect	1,638	24%
Duplicated Categories	1,214	17%
Abuse	631	9%
Exploitation	302	4%
TOTAL	6,960	100%

Source: *Adult Services Annual Program Report, 2002*

Researchers believe that we have only seen “the tip of the iceberg” in the reporting of adult abuse. The NEAIS study estimated a significant, “submerged” area of previously unidentified and unreported cases of elder abuse. No methodology can identify and report on all hidden abuse and neglect, and a submerged core of abuse and neglect remains unidentified, unreported, and inestimable at this time. The continued mapping of this terrain represents a challenge for future adult abuse research (NEAIS, 1998).

C. Non-Reporting by Mandated Reporters

When a mandated reporter provides information to APS on suspected abuse, neglect, or exploitation of a vulnerable adult, he or she is providing a way for the abuse, neglect, or exploitation to be identified and stopped and services provided to the adult. By not reporting or delaying the reporting of suspicions of adult abuse, the adult’s victimization

is prolonged and may reach the point where the damage to the person and his or her property is irreversible.

In Virginia, the penalty for any mandated reporter found guilty of not reporting within 24 hours of having the reason to suspect is not more than \$500 for the first failure and not less than \$100 nor more than \$1,000 for any subsequent failures. To date, however, no one has ever been charged with failure to report a case of suspected adult abuse. Oregon's APS representative noted several possible reasons for mandated reporters not being penalized for failing to report a suspected case of adult abuse:

- Lack of complaints to district attorneys due to lack of knowledge that there is a penalty in the statute;
- The ability of the mandated reporter to say he or she was not aware that he or she is a mandated reporter; and
- "Political will."

A review of other states' failure to report laws finds that most states do have a law that imposes either a fine, jail time, or both for mandated reporters who do not report as required (see Appendix C). In addition, several states noted that the law had never been tested (i.e., no one had ever been prosecuted for non-reporting). One state representative noted that the penalty was "on the books" primarily for education purposes and "to get the reporters' attention." In most of the states for which information was available, either the courts or Attorney General, district attorney, or county attorney had the authority to impose the fine or jail time or prosecute, although in one state (Pennsylvania), the state agency imposes the penalty for both non-reporting of a known abuse case and any civil penalty that may be imposed for abuse.

VIII. CENTRAL REGISTRY

Several bills have been introduced over the past few years that would establish an APS registry within the Department. The registry would contain a listing of any person employed by a facility or state licensed or funded program who had abused, neglected, or exploited a person 60 years of age or older or an adult with disabilities when that abuse, neglect, or exploitation resulted in a local department of social services' determination that such person had need of protective services. Applicants for certain employment would be required to obtain a search of the APS registry prior to employment. None of these bills have become law. The following are studies that were identified regarding the implementation of an adult abuse registry.

A. National Association of State Units of Aging Registry Study

A 1997 study by the National Association of State Units on Aging (NASHUA) investigated policies and procedures used for adult abuse registries. The study

suggested four primary issues that must be addressed before any state implements an APS central registry: scope of the registry, due process, employers, and registry management.

- **Scope of the Registry:** How extensively a registry is used varies tremendously from state to state. Florida registered ALL perpetrators of ALL types of elder abuse, neglect, and exploitation. Oregon registers only nursing assistants who are found to be exclusively responsible for the abuse, neglect, or exploitation (i.e., if a facility is even partly responsible, the nurse assistant perpetrator may not be put on the list).
- **Due Process:** Most states notify alleged perpetrators, in writing, of the allegations against them and offer them the opportunity to challenge the allegations. In all states reviewed except Florida, the perpetrator's name does not go on the registry during the time set aside for these challenges. However, at least one state (Nebraska) does not notify perpetrators before they are placed on its registry.
- **Employers:** Delaware's list of the types of employers who must consult the registry is the most extensive of the states studied. This large access suggests that attention should be paid to verifying the legitimacy of requests for information, although many states seem to be relatively unconcerned about that issue. The amount of information employers are given varies widely from state to state. In some states, being on the registry precludes an individual from employment in specified fields, whereas in other states employers may choose to ignore the fact that an employee has been involved in a substantiated abuse case. Florida was the only state that attempted to notify employers that there is a problem when someone who applies for a job in the time period when a case is confirmed and the end of the perpetrator's due process period is over. In that case, a letter is sent to the job applicant saying that the Department is "unable to determine your eligibility for employment."
- **Registry Management:** The issues involved in registry management include: 1) How will affirmative matches be made between job applicants and perpetrators listed in the registry?; 2) Which agency will manage the registry and will it be integrated within a certified nurse aide registry?; 3) Will employers be able to access the registry by telephone, fax, letter, or computer?; and 4) How staff-intensive will this program be?

Matching a job applicant with a registry can be problematic. Applicants may legitimately change their names through marriage or may apply at different places under different names. Social security numbers may not be available, particularly within the registry. Florida received annually about 80,000 requests for employment screening in adult services related positions required to be screened.

As nurse aides often work several jobs at once and apply at many places frequently, the state may check one individual numerous times per year.

B. General Accounting Office Report

The General Accounting Office (GAO) noted several limitations of existing nurse aide registries. These registries cover only nurse aides, even though non-licensed, non-certified employees allegedly perpetuated 10 of the 158 cases of abuse that the GAO reviewed. Seventeen percent of the GAO cases had not been entered into the nurse aide registry for at least 10 months (and up to over two years) after the initial allegation was made. In addition, registries were typically not notified when criminal backgrounds are uncovered, so do not include such findings.

C. Department of Social Services' Registry Study

In 1997, the Department's Adult Services Program sent a survey form to APS administrators in forty-nine states and the District of Columbia. The purpose of the survey was to gather information on other states' experiences with developing and implementing a central adult abuse registry so that knowledge could be applied to Virginia. Thirty-three states (66 percent) completed and returned the form. The survey form included the following definition of a central adult abuse registry:

A Central Adult Abuse Registry is a system for archiving the identity of individuals who are found, through an adult protective services investigation, to have abused, neglected, or exploited an elder or an adult with disabilities. The purpose of the registry is to have a means to identify persons who have abused, neglected, or exploited an elder or an adult with disabilities and to make the information available to individuals, agencies, or employers who have a legitimate need for such information.

States were asked the question, "Do you consider the central adult abuse registry to be an effective method of preventing abuse?" The following comments were received in response to this question:

- The value is limited, but preventing a few perpetrators from having access to potential victims may be worth the effort.
- It is effective only to the extent that we are able to intervene on cases reported.
- In cases of clever perpetrators, they can find a way to circumvent the system.

States that have experience with an adult abuse central registry noted the following with regards to the operation of the registry:

- There is significant lag time in getting someone on the registry from the time of the suspected abuse until all appeals have been exhausted.
- Questions about liability and confidentiality continue to be troublesome.
- The debate on whether the registry violates the rights of alleged perpetrators is unresolved.
- The number of workers assigned to the registry has not kept pace with the increase in reports.

States that considered and rejected an APS central registry expressed concerns in the following areas:

- **Philosophy of APS:** A registry would represent a significant change in APS philosophy. Program focus would shift from protection of elders and disabled adults to tracking and prosecution of perpetrators.
- **Cost:** The cost is significant and any benefit to the victim would be negligible.
- **Use of Scarce Resources:** A registry diverts limited resources that could be used to more effectively address the service needs of victims. States anticipate that a disproportionate part of limited resources would be needed to maintain the registry, respond to requests from interested persons, and respond to challenges by perpetrators.
- **Due Process Rights of Alleged Perpetrators:** Alleged perpetrators whose names are kept in a registry have due process rights. Appeals and fair hearings would necessitate a level of legal expertise not currently available to APS programs.
- **Liability:** The maintenance of an APS central registry is likely to result in increased liability for the program and a corresponding need for greater legal involvement and cost to the program.
- **Confidentiality of Records:** Information collected and maintained as a result of a complaint investigation is confidential under states' statutes.

D. Florida's Experience

The Florida House of Representatives, Elder Affairs and Long-Term Care Committee (The Honorable John Thresher, Speaker), conducted a 10-year performance review of Florida's APS central registry. The study concluded that, "in spite of the intensive effort of hundreds of staff across many agencies and the substantial due process costs, relatively few individuals have been prevented by the system from working with vulnerable adults"

(letter from Tom Batchelor, Ph.D., Staff Director, Florida Committee on Elder Affairs and Long-Term Care, July 23, 1999).

All reports came to a centralized hotline where they are screened against criteria, and, if accepted for investigation, go through a prior records check to determine if either the subject of the report or the alleged perpetrator has any prior APS or CPS record. If so, the report is tagged onto a new report and is transmitted electronically to the agency where the victim is located for an investigation. A perpetrator can be disqualified for employment based on the findings of a hotline report, although the legislature is considering a bill that would not all disqualification for employment unless there is a criminal conviction for the abuse or neglect; instead, employers would use the information for the purpose of making employment decisions. Less than one percent of perpetrators have been prosecuted in Florida.

Reasons cited for the Florida system's failure to prevent persons who have abused or neglected vulnerable adults include:

- Significant problems with the automated system, particularly that it is unable to accommodate the number of reports coming in.
- Manpower due to an increase in reporting.
- Return of certified mail notices led to the requirement of personally serving the notification to the perpetrator.
- Burden of proof is on the agency; APS has to show their finding by a preponderance of the evidence (law enforcement has to show finding beyond a reasonable doubt).
- Extensive appeal process.

The Committee is exploring alternative ways to prevent the victimization of elderly and disabled persons by paid caregivers. This includes a review of how other states handle the prevention of perpetrators of abuse and neglect from working with vulnerable adults.

E. Implementing an APS Registry in Virginia

In the nationwide Department study of registries, there was little information available on the cost of operating an APS central registry. Only two states provided information on cost of implementation and operation of a central registry in the Department's 1997 study. Arkansas reports an annual cost of \$60,000 for the computer network, staff, answering service, and incidentals. Other states that operated a joint APS/CPS registry at the time of the study included Idaho, Iowa, Mississippi, and Montana. These states did not provide cost data. The Florida registry has operated in conjunction with the CPS registry and reports a cost of \$9 million and 120 staff positions for the operation of both registries.

Costs for an APS central registry include automated systems, staffing for the registry, appeals, and the development and training of significant policy, regulatory, and

procedural changes in APS and appeals. The Department would be required to develop and maintain an automated system, hire new staff, and modify current training and guidance that currently focuses on the protection of adult victims of abuse, neglect, and exploitation. It is estimated that approximately \$2.1 million would be necessary to develop and implement an APS central registry in Virginia. Please refer to Table 6 for the breakdown of this estimate.

To implement a registry, an automated system with perpetrator tracking would be necessary. The current APS client system (VACIS) is outdated and provides minimal information. The Department plans to incorporate APS into OASIS, its new services automated system, without perpetrator tracking. There is no scheduled date planned for this incorporation. Development of a new system and training of users would be contracted out with an estimated cost of \$400,000.

The APS program currently does not determine the guilt or innocence of a perpetrator. It focuses solely on services to the alleged victim. The registry would label perpetrators who will require appeal rights, resulting in greater legal involvement in the program. APS appeals would require hearings officers. APS currently has no appeal process. This change would represent a significant shift in APS philosophy from protection of vulnerable adults and provision of services to labeling and tracking perpetrators, necessitating major changes in APS policy and training.

Based on data provided by the Child Protective Services Program in Virginia, an estimated 21.5 additional staff would be needed. This includes personnel for registry searches, requests, coordination, and supervision, policy, training, and appeals. Fringe benefits are calculated as 28 percent of salaries. Operating costs would include telephones, supplies, space, insurance, equipment, and office furniture.

TABLE 6. SUMMARY OF ESTIMATED FUNDING NEEDED TO IMPLEMENT AN APS REGISTRY

REGISTRY COMPONENTS	ESTIMATED COST
Registry staff (16 FTEs)	\$366,857
Policy staff (2 FTEs)	\$79,802
Appeals staff (3.5 FTEs)	\$131,309
Fringe benefits	\$218,609
Operating costs	\$103,250
Automation contracting, including training	\$400,000
Local department costs (net of 20% match)	813,081
Estimated Total Cost	\$2,112,908

Note: Funding is all General Fund. 2002 estimates.

In order for a central abuse registry to be effective, there must be adequate funding to establish and maintain the registry. In addition, a decision must be made about the scope

of the registry (i.e., will it include all perpetrators of abuse, neglect, and exploitation?), data system ability to track perpetrators, and who has access to the registry.

The experience of the CPS Registry in Virginia could be modeled in an APS registry program. After the initial start-up, the CPS Registry is now self-sufficient, funded by the fees that employers must send to have a registry search conducted. It would be anticipated that an APS registry may also become self-sufficient after it has been established and successfully implemented over several years.

VIII. OTHER ADULT ABUSE INITIATIVES

A. Adult Abuse Education Initiative

With the Commonwealth, several state agencies have programs where the Commissioner or Director or board of the agency is authorized to impose a penalty. One example is within the Department of Health Professions (DHP). According to the *Code of Virginia*, § 54.1-2401, any person licensed, registered, or certified by any health regulatory board who violates any provision of statute or regulation pertaining to the board and who is not criminally prosecuted, may be subject to a monetary penalty. If the board or any special conference committee determines that an individual has violated any provision of statute or regulation pertaining to the board, it shall determine the amount of any monetary penalty to be imposed for the violation which shall not exceed \$1,000 for each violation. In the case of DHP, monetary penalties are deposited in the Literary Fund. In addition, § 54.1-3005 permits the board to impose a fee pursuant to § 54.1-2401 for any violation thereof.

In another example, the Department of Medical Assistance Services (DMAS), as administrator of the state Medicaid program, maintains a fund comprised of civil money penalties received from nursing facilities as a result of enforcement of federal survey requirements. Pursuant to federal regulations, such funds are to be used for the protection of the health or property of certified nursing facility residents. The Nursing Facility Education Initiative (NFEI), a non-profit organization created pursuant to § 32.1-353.4 to spend such funds in accordance with federal law, provides early onsite training and assistance to certified nursing facilities that are found not in substantial compliance with long-term care requirements. Creative and innovative approaches to the provision of long-term care services may also be explored. According to § 32.1-353.3, the Director or his designee has the authority to enter into agreements with the NFEI. The Board of Medical Assistance Services oversees this program. Funding for services may come from charges to nursing facilities for services, from general appropriations, and from civil money penalty funds. Organizational development costs were funded from the civil money penalty funds held by DMAS.

In the Department of Social Services, according to § 63.2-1709, the Commissioner is authorized to impose administrative sanctions or initiate court proceedings to ensure prompt correction of violations in assisted living facilities or adult day care centers that

are out of compliance with state licensure regulations. This process enables issues of non-compliance to be dealt with in a timely and efficient manner. Through the issuance of a special order, the Commissioner may take the following actions regarding assisted living facility, adult day care centers, and child welfare agencies licensees who are substantially out of compliance:

- Place licensee on probation;
- Reduce licensed capacity or prohibit new admissions;
- Require that probationary status announcements, provisional licenses, and denial or revocation notices be posted in a prominent place at each public entrance of a licensed premises;
- Mandate training for the licensee or licensee's employees;
- Assess civil penalties of not more than \$500 per inspection upon finding that the licensee is substantially out of compliance with the terms of the license and the health and safety of residents, participants, or children are at risk; and
- Prevent licensees who are substantially out of compliance with licensure terms or in violation of the regulations from receiving public funds.

A similar program where the Commissioner of Social Services could impose fines on mandated reporters who do not report as required would enable the APS program to act on incidences where adults are abused, neglected, and exploited and APS was not made aware of the situation in a timely manner, thus subjected the adult to prolonged abuse. Funds collected through such an initiative could be used for services to adults and for mandated reporter educational programs.

B. Mortality Review Committees

At least two states (Arkansas and Indiana) have mortality review committees. This committee reviews information relative to the death of persons in a long-term care residential situation. The information is used to identify trends, direct training needs, and develop recommendations for the future prevention of abuse. Information reviewed includes incident reports, medical records, death certificates, autopsy reports, notification of death forms, and additional provider information as requested. Minutes and forms completed by the committee are confidential and not subject to disclosure as a public record.

Arkansas law requires that a coroner view every death in a long-term care facility. This includes not only a record review, but also a physical inspection of the body. In Illinois, the "Abused and Neglected Long-Term Care Facility Residents Reporting Act" applies to residents whose death occurs from suspected abuse or neglect before being found or brought to a hospital. Senator John Breaux, Chair of the U.S. Senate Special Committee on Aging has expressed interest in expanding this practice to other states.

In Virginia, there are frequently no autopsies of deaths of elders in long-term care facilities, and the determination of the cause of death is often arbitrary. Registered nurses

can declare death in nursing facilities even though the possibility exists that they could have been involved in the death.

Consideration may also be given to the training of funeral directors to recognize signs of physical abuse and neglect in remains received from long-term care facilities. However, this, too, would be a departure from current APS philosophy of protecting and providing services to vulnerable adults.

C. Reporting Requirements

Illinois law prohibits any long-term care facility or administrator, agent or employee, or any other person, to screen reports or otherwise withhold any reports from APS. Long-term care facilities are also prohibited from establishing any rules, criteria, standards, or guidelines other than direct reports of all suspected adult abuse and neglect to APS. In addition, the law requires that every long-term care facility, department of state government, and other agencies whose employees are required to make or cause to be made reports must notify its employees of the requirements of the law and to provide to APS documentation that such notification has been given. This requirement includes all mental health and development disabilities staff in state government.

In Virginia, there are anecdotal reports of long-term care facility administrators handling abuse and neglect complaints in-house or reporting only to the Virginia Department of Health. The requirement that long-term care administrators be responsible for training their staff on adult abuse and neglect reporting, in addition to including adult abuse and neglect requirements on Virginia's nursing home administrator licensing examination, would help to ensure that they are knowledgeable of the law's requirements.

The *Code of Virginia*, § 54.1-3007, permits the Board of Health Professions to refuse to admit a candidate to any examination, refuse to issue a license or certificate to any applicant, and to suspend any license or certificate for a stated period or indefinitely, or revoke any license or certificate or censure or reprimand any licensee or certificate holder or place him on probation for such time as it may designate for certain causes such as unprofessional conduct, felony conviction, misdemeanor involving moral turpitude, or abuse, negligent practice, or misappropriation of a resident's property. Requiring that regulated health professionals be referred to the Department of Health Professions for possible disciplinary action for failure to report would also serve to enhance compliance with the law.

D. GAO Study Recommendations

General Accounting Office (GAO) reports in 1991 and 2002 reviewed information on several aspects of adult abuse in nursing facilities. With regard to abuse prevention systems (such as conducting background checks and tracking abusive employees), the GAO reports discussed a number of issues. Although all states studied require nursing facilities to conduct criminal background checks on potential employees, few request federal background checks that might pick up convictions from other states.

About 50 percent of abuse allegations known to nursing facilities were referred to the state survey agency outside the mandated reporting window. This is problematic because crime evidence decays quickly.

Sanctions against nursing facilities for abuse were relatively rare. Of the 158 cases reviewed, only 26 facilities were cited for deficiencies related to the abuse. Only one civil money penalty was recommended, and even it was reduced on appeal.

The GAO found that the number of adult abuse cases that states identify is strongly influenced by many factors including reporting laws. However, reporting laws are much less effective than other factors in maximizing the number of adult abuse cases identified, prevented, and treated. The most important factors in recognizing adult abuse, according to the reports, are as follows:

- **The single most important factor in identifying elder abuse was identified as a high level of public and professional awareness.** A high level of awareness of what elder abuse is and how to report it was ranked as the most effective factor for maximizing the number of cases identified.
- **The single most important factor in the prevention and treatment of elder abuse is home-based services.** Efforts to raise awareness, to improve interagency coordination of efforts, and to increase the availability of in-home services have a more significant impact on the effectiveness of state adult protective services programs than any other factors.

IX. VIRGINIA'S ADULT ABUSE PREVENTION STRATEGIES

State initiatives to increase awareness of elder abuse include education, training, and information campaigns for the general public as well as special programs for certain types of professionals. APS awareness efforts in the Commonwealth have included:

- **APS Hotline** was established as a toll-free, 24-hour hotline to accept calls of suspected adult abuse, neglect, and exploitation. The toll-free, 24-hour APS hotline began receiving APS calls on February 1, 1997. The hotline receives reports of abuse, neglect, and exploitation of the elderly and adults with disabilities. Persons suspecting abuse in any setting, including nursing facilities, assisted living facilities, community settings, and the home may make reports. The number is 1-888-832-3858 (1-888-83ADULT). In FY 01, the hotline received 471 APS reports.
- **Virginia Financial Institution Reporting (FIR) Project** was developed following the 2001 Session of the General Assembly. Sponsored by Delegate Phillip A. Hamilton, House Bill 1581 states:

Any financial institution that suspects that an adult customer has been exploited financially may report such suspected exploitation to the local department of the county or city wherein the adult resides or where the exploitation is believed to have occurred. . . a financial institution means any bank, savings institution, credit union, securities firm, or insurance company.

This legislation allows financial institutions to report suspected cases of adult financial exploitation to APS without civil or criminal liability. Through this project, approximately 500 educational packets (including a resource guide, video, brochures, and PowerPoint presentation) were issued to local departments of social services, area agencies on aging, members of the Virginia FIR Project Advisory Committee, and other interested parties. The Advisory Committee included representation from AARP; the Better Business Bureau of Central Virginia; TRIAD/Office of the Attorney General; Office of the Secretary of Health and Human Resources; Professional Insurance Agents of Virginia; Virginia Bankers Association; Virginia Credit Union Association; Virginia Securities Association; Virginia Bank Security Association of Tidewater; Virginia Coalition for the Prevention of Elder Abuse; and others.

- **Financial Exploitation Training** was provided at statewide conferences in April 2001 in Charlottesville for approximately 80 banking security officers and in Reston for credit union staff. Financial exploitation training has also been provided to many other financial institutions, including the Virginia Credit Union League at its annual conference in 2002.

In addition, the Virginia Credit Union League has sent information from the Virginia FIR Project to 240 affiliated credit unions in the Commonwealth encouraging all credit unions to use this information to discourage and report the financial exploitation of senior and disabled citizens throughout the Commonwealth. Training materials and brochures were distributed to all 240 credit unions.

- **Mandatory Training of APS Staff** legislation was passed that requires minimum training standards for all APS workers in the Commonwealth. This legislation became effective January 1, 2002, and requires that all current APS workers take mandatory courses in APS policy and procedures, substance abuse, long-term care facility investigations, and assessing capacity by January 1, 2003. All new APS workers must complete the required coursework within one year of their employment as an APS worker. There are also requirements for continued education. A database listing all workers who have attended either policy or skills training within the last nine years has been created. Regional Adult Services (AS) staff conducted over 90 trainings in FY 2002 within the regions to meet the requirements of the State Plan for APS Uniform Training, training an estimated 1,100 persons.

- **May APS Awareness Packets** were provided to over 150 interested parties in May for Adult Abuse Awareness Month. Packets were sent to each local department of social services with suggestions for initiating a local educational campaign for localities. Packets were also sent to other interested parties such as financial institutions, the clergy, aging advocacy organizations, and the media.
- **“Need No Longer Exists”** is one of the categories for classifying APS cases that have been investigated. When a local social worker makes this disposition for an APS case, the case is referred for follow-up to the appropriate authority such as law-enforcement, Department of Health Professions, Department of Medical Assistance Services, or the Fraud and Abuse Program in the Office of the Attorney General. After 45 days of the referral, the APS social worker contacts the agency to which the case was referred to determine the case disposition.
- **APS Brochures** are provided to mandated reporters and other interested parties. The brochures are *Adult Protective Services in Virginia; A Long-Term Care Facility’s Guide to Adult Protective Services; What Mandated Reporters Need to Know; Preventing Financial Exploitation in Virginia: A Guide for Financial Institutions;* and *Preventing Financial Exploitation in Virginia: A Guide for Seniors and Adults with Disabilities.*
- **The Virginia Nurse Aide Registry** administered by the Department of Health Professions (DHP) manages complaint investigations, public disciplinary proceedings with due process rights afforded, and maintenance of complaint records relating to abuse or misconduct by persons other than certified nurse aides (CNAs) in the event such persons ever apply for certification or licensure by the Board of Nursing. The Board of Nursing is authorized to make findings of abuse, neglect, and misappropriation of property by CNAs. The Board of Nursing refers reports of misconduct to other appropriate agencies and law enforcement offices. The Nurse Aide Registry regulates CNAs working in all care settings and was established as a federal mandate pursuant to the Omnibus Reconciliation Act of 1987.
- **Office of the Attorney General Medicaid Fraud Control Unit (MFCU)** investigates instances of patient abuse and neglect (including corporate neglect and embezzlement of patient trust funds) in Virginia’s healthcare facilities. MFCU receives complaints from providers’ former employees, federal and state agencies, and the Department of Medical Assistance Services. Since 1982, MFCU has convicted 138 individuals and recovered \$23,318,922 from criminal and civil cases.
- **The APS Mandated Reporter Advisory Committee** was established. This interagency, collaborative committee has reviewed issues surrounding adult abuse, including mandated reporting and a central registry. Membership includes

representatives from the Departments of Health, Mental Health, Mental Retardation and Substance Abuse Services, and Health Professions; local government; the Office of the Attorney General; the State Long-Term Care Ombudsman; and provider organizations.

- **Adult Services Annual Reports** are developed annually by the Department's Adult Services Programs Unit. The report offers statistical information on the APS program and is distributed to about 1,000 interested parties.
- **The Statewide VCPEA (Virginia Coalition for the Prevention of Elder Abuse) Conference** was held with Department involvement in training for APS staff and allied professionals. The Department's Adult Services Programs Unit, in collaboration with VCPEA; the Virginia Sheriff's Office; the Alliance of Social Work Practitioners; the Virginia Beach Mayor's Commission on Aging; the Norfolk Task Force on Aging; AARP; and several local agencies sponsored the 8th annual Elder Abuse Prevention Conference. The conference was held on June 3 and 4, 2002, in Virginia Beach at the Hotel and Resort Conference Center. There were over 150 persons in attendance including law enforcement officials, social workers, medical personnel, assisted living facility staff, caregivers, legal professionals, and aging advocates. Workshops included trainings on: Restorative Justice; Ethical Decision-Making; Hoarding; The Role of APS in Protective Services; and Financial Exploitation of the Elderly. The Department sponsored and supported this conference, which drew workers from other states as well as the Commonwealth.
- **Elder Rights Conference** was the second statewide conference on Elder Rights and was held in Richmond on April 30 and May 1, 2002, with attendance of over 200 persons. This conference, sponsored by VDSS and other agencies and planned by the Virginia Elder Rights Coalition (a network of organizations, agencies, and individuals working together to promote the rights and autonomy of older Virginians) was attended by attorneys, professionals in the fields of aging, and law and aging advocates. Secretary of Health and Human Services Jane Woods and Attorney General Jerry Kilgore were speakers at this conference, which featured workshops on Elder Rights and Elder Abuse; Elder Rights: Legal Aspects; Legal Ethics in Serving Older Clients; Assisted Living Residents' Legal Rights; Medicare and Legal and Judicial Access for Older Virginians.
- **Virginia State Police Criminal Records Checks** and the **Central Criminal Records Exchange of the Federal Bureau of Investigation (FBI)** are available to check potential long-term care staff criminal records.
- **The Department's In-Home Services** are considered effective for prevention of adult abuse, neglect, and exploitation, because trained service providers and companion services workers, who regularly visit and interact with older persons in their own homes, may detect increased risks that might otherwise go unnoticed.

Home-based care providers are often in the best position to recognize and report these kinds of adult abuse. VDSS home-based care services are:

- **Companion Services** include activities performed to assist older adults and adults with a disability with activities of daily living such as toileting; eating; dressing; bathing; light housekeeping; meal preparation; and shopping.
- **Homemaker Services** include instruction in or the provision of activities to maintain a household. Services may include personal care; home management; household maintenance; nutrition; and consumer and health care education.
- **Chore Services** are non-routine, heavy home-maintenance tasks that may include window washing; floor maintenance; yard maintenance; painting; chopping wood; snow removal; and minor repair work in the home.

Of those receiving a home-based service, 83 percent were aged 60 or over and 17 percent were aged 18 and over with a physical or mental disability. The following table shows the number of adults receiving each type of home-based service in FY 02.

**TABLE 6. ADULTS RECEIVING VDSS HOME-BASED SERVICES
FY 2002**

SERVICE	# ADULTS
Adults Receiving Companion Services	5,462
Adults Receiving Homemaker Services	124
Adults Receiving Chore Services	11
TOTAL	5,597

Source: Adult Services Programs annual survey, May 2002.

- **The Department’s Division of Licensing Programs** staff included mandated reporting in the Division’s train-the-trainer course for approximately 100 new adult care program applicants.
- **Educational materials were sent to all licensed assisted living facilities.** The brochure, *What Mandated Reporters Need to Know*, was included in a Division of Licensing Program’s technical assistance mailing to approximately 700 licensed adult care providers, including assisted living facilities and adult day care centers.
- **Virginia Cooperative Extension** included an adult abuse/mandated reporting segment in its training curriculum for assisted living.

- **Training on adult abuse awareness and prevention** has been held statewide by local, regional, and state APS staff. The following is a non-inclusive list of additional training sessions that have been held in FY 2002:
 - Extensive range of courses on APS issues offered through the Virginia Institute of Social Services Training Activities (VISSTA) of Virginia Commonwealth University.
 - Training to adult care programs licensed by the Department through the Virginia Geriatric Education Center at Virginia Commonwealth University.
 - Training to health inspectors at the Virginia Department of Health.
 - Training to staff at the Department of Medical Assistance Services.
 - Regional trainings to local departments of social services staff at coordinator's meetings.
 - Training to local long-term care ombudsmen.
 - New worker policy training for Adult Services/APS staff at the Department.
 - APS refresher course and a course for local departments of social services workers who perform intake and on-call activities for APS, but are not primary investigators.

X. RECOMMENDATIONS

The Department of Social Services recommends the following initiatives to increase awareness and reporting of adult abuse. As has been shown in adult abuse literature, programs that demonstrate collaborative, multidisciplinary efforts are most successful in discovering, prosecuting, and preventing adult abuse, neglect, and exploitation. Creating a cooperative, interagency statewide system for reporting and preventing adult abuse and respecting the dignity and value of every vulnerable adult would lead to the protection and safety of more of the Commonwealth's vulnerable adult population who need these services.

Mandated Reporter Education and Training

RECOMMENDATION #1: Develop and implement targeted, interagency mandated reporting educational programs and training modules for mandated reporter groups with a special emphasis on health professionals, mental health professionals, service providers, and law enforcement.

RECOMMENDATION #2: Add adult abuse reporting requirements to the Board of Nursing Facility Administrators as part of the nursing facility administrators' licensing curriculum.

RECOMMENDATION #3: Enhance the Department's APS web page to include specific information about reporting adult abuse, signs of adult abuse, neglect, and exploitation, and other information for mandated reporters and other interested parties. Links to other groups that provide services for vulnerable adults would be created, including a link to SeniorNavigator.com, which has extensive information about community health and aging resources.

RECOMMENDATION #4: Provide information on adult abuse and mandated reporting to the Department of Health Professions and its boards and other mandated reporter organizations through print and website technology to educate health professionals who are mandated reporters.

RECOMMENDATION #5: Train local law enforcement agencies on the importance of proper response when assisted living and nursing facilities report suspected abuse and educate judges through the state bar association on matters related to adult abuse.

RECOMMENDATION #6: Require that long-term care facility administrators be responsible for ensuring that their staffs are trained on adult abuse and neglect reporting and documenting that the training has been conducted. Prohibit them from screening reports or otherwise withholding reports from APS or from establishing any rules, guidelines, or criteria, or standards other than direct reports of all suspected adult abuse, neglect, or exploitation. Prohibit retaliation against employees who do report suspected abuse, neglect, or exploitation.

Interagency Coordination

RECOMMENDATION #7: Develop and implement an interagency memorandum of understanding to document support of elder abuse reporting and prevention programs by the Departments of Social Services; Health; Health Professions; Mental Health, Mental Retardation and Substance Abuse Services; Protection and Advocacy; and Aging, with the understanding that each agency would be able to exercise discretion when its resources would be adversely affected.

RECOMMENDATION #8: Compile reporting requirements and develop a reporting protocol guide of adult abuse reporting protocols in the Commonwealth for all agencies of the Health and Human Resources Secretariat. Ensure that the definition of adult abuse found in the *Code of Virginia*, § 63.2-100, is applied consistently and appropriately.

RECOMMENDATION #9: Continue bi-annual meetings of the interdisciplinary advisory committee focusing on APS issues of awareness and prevention.

RECOMMENDATION #10: Increase the availability of in-home services (e.g., home-based care, meal programs) to vulnerable adults through the Department of Social Services and other agencies providing services to the elderly and adults with a disability.

Enforcement of Sanctions

RECOMMENDATION #11: Amend the *Code of Virginia*, § 63.2-1606(H) to allow the Commissioner of the Department of Social Services to assess civil penalties currently listed in the law for persons who are determined to have failed to make a required APS report or notification according to law within 24 hours of having the reason to suspect. Fines received would be designated for use in APS educational and training programs.

RECOMMENDATION #12: Recommend an enforcement provision for non-reporting where not already provided by law (i.e., treating failure to report abuse as “unprofessional conduct,” actionable by the respective health regulatory board).

Public Awareness

RECOMMENDATION #13: Develop and implement a sustained statewide strategic communications program designed to educate the general public about adult abuse, including educating the media about adult abuse and prevention issues and drafting press releases for local agencies to use in May for Adult Abuse Awareness Month.

RECOMMENDATION #14: Train at least 600 staff of financial institutions on the Virginia Financial Institution Reporting (FIR) Project.

Data Collection System

RECOMMENDATION #15: Develop and manage an automated data collection system for adult abuse, neglect, and exploitation cases. Virginia currently does not have good data on injuries or deaths related to adult abuse and neglect. This data gap serves to inhibit the ability to communicate to policymakers and the public and does not allow the State to validate the scope of the issue of adult abuse.

For Further Study

RECOMMENDATION #16: Provide funding for a comprehensive study of the need, costs, benefits, and uses of an APS central registry, including analyses of experiences in other states by updating the 1997 study by the Department of Social Services. The study should be directed by the Joint Legislative Audit and Review Commission or the Joint Commission on Health Care. APS staff from the Department of Social Services could provide staff support to the study effort as

needed. Once the study is completed, the Department of Social Services would move forward with any recommendations resulting from the study.

RECOMMENDATION #17: Consider the establishment of an Elder Mortality Review Committee to review cases of unattended deaths of the elderly in long-term care facilities as a means to identify trends, direct training needs, and develop recommendations that will protect the health, safety, and well-being of all elders in a long-term care facility.

XI. CONCLUSION

The greatest challenge in addressing issues of adult abuse, neglect, and exploitation is creating heightened awareness of the problem and the risk inherent for vulnerable adults. Early identification of possible abuse, neglect, and exploitation of adults, coupled with the opportunity to protect adults and provide needed services, will improve quality of care and life to vulnerable adults in the Commonwealth. With the implementation of the recommendations in this report, along with a coordinated effort among state agencies and other stakeholders, abuse of vulnerable adults will be identified and reported.

Adult abuse prevention means ensuring that adequate public/private infrastructure and resources exist to prevent; detect; treat; understand; intervene in; and where appropriate, prosecute adult abuse, neglect, and exploitation. All vulnerable adults in the Commonwealth deserve to be free of abuse, neglect, and exploitation. Through interagency cooperation to identify and protect our elderly and adults with a disability, Virginia can move towards assisting them to live a productive and quality life.

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APPENDIX A

**LEGISLATORS' ACTIONS LEADING TO STUDY:
LETTER FROM SENATOR WILLIAM BOLLING AND LETTER TO SENATOR
EMMETT HANGER, JR.**

ADULT PROTECTIVE SERVICES
Selections from the *Code of Virginia*

§ 63.2-100. (Effective October 1, 2002) Definitions.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult.

"Adult exploitation" means the illegal use of an incapacitated adult or his resources for another's profit or advantage.

"Adult neglect" means that an adult is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being.

"Adult protective services" means services provided by the local department that are necessary to protect an adult from abuse, neglect or exploitation.

§ 63.2-1603. (Effective October 1, 2002) Protection of aged or incapacitated adults; definitions.

As used in this article:

"Adult" means any person eighteen years of age and older who is incapacitated and any qualifying person sixty years of age and older, who, in either case, both of whom reside in the Commonwealth; provided, however, "adult" may include incapacitated or qualifying nonresidents who are temporarily in the Commonwealth and who are in need of temporary or emergency protective services.

"Emergency" means that an adult is living in conditions that present a clear and substantial risk of death or immediate and serious physical harm to himself or others.

"Incapacitated person" means any adult who is impaired by reason of mental illness, mental retardation, physical illness or disability, advanced age or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out responsible decisions concerning his or her well-being.

(1977, c. 547, § 63.1-55.2; 1978, c. 749; 2002, c. 747.)

§ 63.2-1604. (Effective October 1, 2002) Establishment of Adult Protective Services Unit; duties.

There is hereby created the Adult Protective Services Unit within the Adult Services Program in the Department, which shall have the following powers and duties:

1. To support, strengthen, and evaluate adult protective services programs at local departments;
2. To assist in developing and implementing programs aimed at responding to and preventing adult abuse, neglect or exploitation;
3. To prepare, disseminate, and present educational programs and materials on adult abuse, neglect and exploitation;

4. To develop and provide educational programs and materials to persons who are required by law to make reports of adult abuse, neglect, and exploitation under this chapter;
5. To establish minimum standards of training and provide educational opportunities to qualify social workers in the field of adult protective services to determine whether reports of adult abuse, neglect, or exploitation are substantiated. The Department shall establish, and the Board shall approve, a uniform training program for adult protective services workers in the Commonwealth. All adult protective services workers shall complete such training within one year from the date of implementation of the training program or within the first year of their employment;
6. To develop policies and procedures to guide the work of persons in the field of adult protective services;
7. To prepare and disseminate statistical information on adult protective services in Virginia;
8. To provide training and technical assistance to the adult protective services twenty-four-hour toll-free hotline; and
9. To provide coordination among the adult protective services program and other state social services, medical and legal agencies.

(1998, c. 149, § 63.1-55.02; 2001, cc. 701, 716, 746; 2002, c. 747.)

§ 63.2-1605. (Effective October 1, 2002) Protective services for aged and incapacitated adults.

Each local board, to the extent that federal or state matching funds are made available to each locality, shall provide, subject to supervision of the Commissioner and in accordance with regulations adopted by the Board, adult protective services for persons who are found to be abused, neglected or exploited and who meet one of the following criteria: (i) the person is sixty years of age or older or (ii) the person is incapacitated and has no relative or other person able, available and willing to provide guidance, supervision or other needed care. The requirement to provide such services shall not limit the right of any individual to refuse to accept any of the services so offered, except as provided in § 63.2-1608.

(1974, c. 329, § 63.1-55.1; 1977, c. 547; 1978, c. 749; 1983, c. 604; 1999, c. 749; 2002, c. 747.)

§ 63.2-1606. (Effective October 1, 2002) Protection of aged or incapacitated adults; mandated and voluntary reporting; penalty for failure to report.

A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported by any person licensed to practice medicine or any of the healing arts, any hospital resident or intern, any person employed in the nursing profession, any person employed by a public or private agency or facility and working with adults, any person providing full-time or part-time care to adults for pay on a regularly scheduled basis, any person employed as a social worker, any mental health professional and any law-enforcement officer, in his professional or official capacity, who has reason to suspect that an adult is an abused, neglected or exploited adult. The report shall be made immediately to the local department of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred. If neither

locality is known, then the report shall be made to the local department of the county or city where the adult abuse, neglect, or exploitation was discovered. If the information is received by a staff member, resident, intern or nurse in the course of professional services in a hospital or similar institution, such person may, in place of the report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. Any person required to make the report or notification required by this subsection shall do so either orally or in writing and shall disclose all information that is the basis for the suspicion of adult abuse, neglect or exploitation.

Upon request, any person required to make the report shall make available to the adult protective services worker and the local department investigating the reported case of adult abuse, neglect or exploitation any information, records or reports which document the basis for the report. All persons required to report suspected adult abuse, neglect or exploitation who maintain a record of a person who is the subject of such a report shall cooperate with the investigating adult protective services worker of a local department and shall make information, records and reports which are relevant to the investigation available to such worker to the extent permitted by state and federal law.

B. The report required by subsection A shall be reduced to writing within seventy-two hours by the director of the local department on a form prescribed by the Board.

C. Any person required to make a report pursuant to subsection A who has reason to suspect that an adult has been sexually abused as that term is defined in § 18.2-67.10, and any person in charge of a hospital or similar institution, or a department thereof, who receives such information from a staff member, resident, intern or nurse, also shall immediately report the matter, either orally or in writing, to the local law-enforcement agency where the adult resides or the sexual abuse is believed to have occurred, or if neither locality is known, then where the abuse was discovered. The person making the report shall disclose and, upon request, make available to the law-enforcement agency all information forming the basis of the report.

D. Any financial institution that suspects that an adult customer has been exploited financially may report such suspected exploitation to the local department of the county or city wherein the adult resides or wherein the exploitation is believed to have occurred. Such a complaint may be oral or in writing. For purposes of this section, a financial institution means any bank, savings institution, credit union, securities firm, or insurance company.

E. Any person other than those specified in subsection A who suspects that an adult is an abused, neglected or exploited adult may report the matter to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred. Such a complaint may be oral or in writing.

F. Any person who makes a report or provides records or information pursuant to subsection A, D or E or who testifies in any judicial proceeding arising from such report, records or information shall be immune from any civil or criminal liability on account of such report, records, information or testimony, unless such person acted in bad faith or with a malicious purpose.

G. All law-enforcement departments and other state and local departments, agencies, authorities and institutions shall cooperate with each adult protective services worker of a local department in the detection and prevention of adult abuse, neglect or exploitation.

H. Any person who is found guilty of failing to make a required report or notification pursuant to subsection A or C, within twenty-four hours of having the reason to suspect abuse, shall be fined not more than \$500 for the first failure and not less than \$100 nor more than \$1,000 for any subsequent failures.

(1977, c. 547, § 63.1-55.3; 1984, c. 628; 1986, cc. 448, 487; 1990, c. 308; 1991, c. 33; 1994, c. 891; 1997, c. 687; 1999, c. 749; 2001, c. 191; 2002, c. 747.)

§ 63.2-1607. (Effective October 1, 2002) Duty of director upon receiving report.

Any local director who receives a report that a person is in need of adult protective services shall make a prompt and thorough investigation to determine whether the person is in need of adult protective services and what services are needed. The investigation shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. If the local department is denied access to interview the person or denied entrance to the residence of the person believed to be an adult in need of adult protective services, the local department may petition the circuit court for an order allowing access or entry or both. Upon a showing of good cause, the court may enter such order upon a petition supported by an affidavit or by sworn testimony in person that establishes that such department has received a report that the individual is in need of adult protective services and access to interview the person has been denied the local department by a third party. After completing the investigation, the local director shall make a written report of the case indicating whether he believes adult protective services are needed. If a report that a person is in need of adult protective services is unfounded, the local director shall notify the individual making the report of this determination. If the local director determines that the adult needs adult protective services according to the criteria set forth in subsection A of § 63.2-1609, the local director may petition the circuit court for an emergency order for adult protective services pursuant to § 63.2-1609. If the case involves a regulated facility, and if the person alleged to be in need of services leaves the facility or if his safety is otherwise assured, the local director shall forthwith refer the case to the appropriate regulatory authority or agency for administrative or criminal investigation. The local director shall, not later than forty-five days after referral, contact the investigating agency to determine the status of the investigation.

(1977, c. 547, § 63.1-55.4; 1981, c. 456; 1983, c. 604; 1986, c. 213; 1988, c. 898; 2001, c. 503; 2002, c. 747.)

§ 63.2-1608. (Effective October 1, 2002) Involuntary adult protective services.

A. If an adult lacks the capacity to consent to receive adult protective services, these services may be ordered by a court on an involuntary basis through an emergency order pursuant to § 63.2-1609 or through the appointment of a guardian pursuant to Article 1.1 (§ 37.1-134.6 et seq.) of Chapter 4 of Title 37.1.

B. In ordering involuntary adult protective services, the court shall authorize only that intervention which it finds to be least restrictive of the adult's liberty and rights, while consistent with his welfare and safety. The basis for such finding shall be stated in the record by the court.

C. The adult shall not be required to pay for involuntary adult protective services, unless such payment is authorized by the court upon a showing that the person is financially able to pay. In such event the court shall provide for reimbursement of the actual costs

incurred by the local department in providing adult protective services, excluding administrative costs.

(1977, c. 547, § 63.1-55.5; 1978, c. 562; 1979, c. 451; 1997, c. 801; 2002, c. 747.)

§ 63.2-1609. (Effective October 1, 2002) Emergency order for adult protective services.

A. Upon petition by the local department to the circuit court, the court may issue an order authorizing the provision of adult protective services on an emergency basis to an adult after finding on the record, based on a greater weight of the evidence, that:

1. The adult is incapacitated;
2. An emergency exists;
3. The adult lacks the capacity to consent to receive adult protective services; and
4. The proposed order is substantially supported by the findings of the local department which has investigated the case, or if not so supported, there are compelling reasons for ordering services.

B. In issuing an emergency order, the court shall adhere to the following limitations:

1. Only such adult protective services as are necessary to improve or correct the conditions creating the emergency shall be ordered, and the court shall designate the approved services in its order. In ordering adult protective services the court shall consider the right of a person to rely on nonmedical remedial treatment in accordance with a recognized religious method of healing in lieu of medical care.
2. The court shall specifically find in the emergency order whether hospitalization or a change of residence is necessary. Approval of the hospitalization or change of residence shall be stated in the order. No person may be committed to a mental health facility under this section.
3. Adult protective services may be provided through an appropriate court order only for a period of five days. The original order may be renewed once for a five-day period upon a showing to the court that continuation of the original order is necessary to remove the emergency.
4. In its order the court shall appoint the petitioner or another interested person, as temporary guardian of the adult with responsibility for the person's welfare and authority to give consent for the person for the approved adult protective services until the expiration of the order.
5. The issuance of an emergency order and the appointment of a temporary guardian shall not deprive the adult of any rights except to the extent provided for in the order or appointment.

C. The petition for an emergency order shall set forth the name, address, and interest of the petitioner; the name, age and address of the adult in need of adult protective services; the nature of the emergency; the nature of the person's disability, if determinable; the proposed adult protective services; the petitioner's reasonable belief, together with facts supportive thereof, as to the existence of the facts stated in subdivisions A 1 through A 4; and facts showing the petitioner's attempts to obtain the adult's consent to the services and the outcomes of such attempts.

D. Written notice of the time, date and place for the hearing shall be given to the person, to his spouse, or if none, to his nearest known next of kin, and a copy of the petition shall be attached. Such notice shall be given at least twenty-four hours prior to the hearing for emergency intervention. The court may waive the twenty-four - hour notice requirement

upon showing that (i) immediate and reasonably foreseeable physical harm to the person or others will result from the twenty-four - hour delay, and (ii) reasonable attempts have been made to notify the adult, his spouse, or if none, his nearest known next of kin.

E. Upon receipt of a petition for an emergency order for adult protective services, the court shall hold a hearing. The adult who is the subject of the petition shall have the right to be present and be represented by counsel at the hearing. If it is determined that the person is indigent, or, in the determination of the judge, lacks capacity to waive the right to counsel, the court shall locate and appoint a guardian ad litem. If the person is indigent, the cost of the proceeding shall be borne by the Commonwealth. If the person is not indigent, the cost of the proceeding shall be borne by such person. This hearing shall be held no earlier than twenty-four hours after the notice required in subsection D has been given, unless such notice has been waived by the court.

F. The adult, the temporary guardian or any interested person may petition the court to have the emergency order set aside or modified at any time there is evidence that a substantial change in the circumstances of the person for whom the emergency services were ordered has occurred.

G. Where adult protective services are rendered on the basis of an emergency order, the temporary guardian shall submit to the court a report describing the circumstances thereof including the name, place, date and nature of the services provided. This report shall become part of the court record. Such report shall be confidential and open only to such persons as may be directed by the court.

H. If the person continues to need adult protective services after the renewal order provided in subdivision B 3 has expired, the temporary guardian or the local department shall immediately petition the court to appoint a guardian pursuant to Article 1.1 (§ 37.1-134.6 et seq.) of Chapter 4 of Title 37.1.

(1977, c. 547, § 63.1-55.6; 1978, c. 562; 1979, c. 451; 1997, c. 921; 2002, c. 747.)

§ 63.2-1610. (Effective October 1, 2002) Voluntary adult protective services.

A. Any adult may receive adult protective services, provided or arranged for by the director if the adult requests or affirmatively consents to receive these services. If the person withdraws or refuses consent, the services shall not be provided.

B. No person shall interfere with the provision of adult protective services to an adult who requests or consents to receive such services. In the event that interference occurs on a continuing basis, the director may petition the court to enjoin such interference.

C. The actual costs incurred by the local department in providing adult protective services shall be borne by the local department, unless the adult agrees to pay for them or a court authorizes the local department to receive reasonable reimbursement for the adult protective services, excluding administrative costs, from the person's assets after a finding that the adult is financially able to make such payment.

(1977, c. 547, § 63.1-55.7; 2002, c. 747.)

**APPENDIX C: COMPARISON OF STATE PENALTIES FOR MANDATED REPORTERS' FAILURE TO REPORT
CASES OF ADULT ABUSE**

STATE	APS AGENCY/ CONTACT/WEBSITE	PENALTIES	IMPOSED BY	COMMENTS
Alabama	http://www.legislature.state.al.us/Cod eofAlabama/1975/38-9-7.htm	Information not provided.	Courts	
Alaska	Julie Holden, Statewide Supervisor Julie_holden@admin.state.ak.us Alaska Division of Senior Services http://touchngo.com/lglcntr/akstats/St atutes/Title 47/Chapter24/Section 010.htm	Class B misdemeanor and reporting to Department of Law. If non-reporter is licensed or certified or regulated by State, court notifies licensing, certifying, or regulating entity of conviction.	Courts; Attorney General	Abandonment, exploitation, abuse, neglect, or self-neglect covered.
Arizona	Arizona Dept. of Economic Security Aging and Adult Administration http://www.de.state.az.us/links/aaa/a psciu.asp	Class 1 misdemeanor.	Courts	Abuse, neglect, and exploitation covered.
Arkansas	Arkansas Division of Aging and Adult Services	Information not provided.		Abuse, neglect, sexual abuse, and exploitation; has central registry; has mandated medical examiner review of all deaths in long-term care facilities.
California		Information not provided.		
Colorado		No mandated reporter laws.		
Connecticut	Lynn Noyes, lynn.noyes@po.state.ct.us	Information not provided.		
Delaware	Division of Services for Aging and Adults with Physical Disabilities	Information not provided.		
District of Columbia	Barbara Strother, Barbara.strother@dc.gov Department of Human Services	Fine of up to \$300.	Superior Court	
Florida	www.leg.state.fl.us/Statutes/	2 nd degree misdemeanor, punishable by appropriate Florida statutes. Fine for making false report up to \$10,000.	Court	Bankers mandated reporters; mandatory reporting of suspicious death of vulnerable adult.
Georgia		Information not provided.		
Hawaii		Information not provided.		

Idaho	Commission on Aging www3.state.id.us/ www.idahoaging.com/	Information not provided.		APS available through area agency on aging.
Illinois	lbeneze@age084R1.state.il.us	No specific punishment; however, a professional failing to report could be professionally disciplined.	NA	No one ever been charged. Financial exploitation, emotional abuse, passive neglect, physical abuse, willful deprivation, confinement, and sexual abuse categories.
Indiana	Indiana Family & Social Services Administration Bureau of Aging and In-home Services; IC 12-10-3	None identified.		Neglect, battery, and exploitation categories. Has Disabled Persons Mortality Review policy.
Iowa	Todd Savage, todd.savage@dea.state.ia.us Department of Elder Affairs www.state.ia.us/government/dea/advocacy/elderabuse.html	None identified.		Has central registry.
Kansas	www.kslegislature.org/	Class B misdemeanor.	Court	Secretary of Social and Rehabilitative Services responsible to determine that an adult needs protective services.
Kentucky	www.lrc.state.ky.us/regulations/	None identified.		
Louisiana	Ellen Estevans, Asst. Director Office of Elderly Affairs www.legis.state.la.us/tsrs	Fine of not more than \$500 or imprisoned not more than six months, or both. No specified mandated reporters, so difficult to prosecute.	Attorney General	No one ever prosecuted.
Maine	http://janus.state.me.us/legis/statutes	Civil violation for which a forfeiture of not more than \$500 may be adjudged. Any licensed, registered, accredited, or certified professional adjudged who violated non-reporting shall be reported by court to appropriate professional licensing, registration board, accrediting unit, or facility.	Court	
Maryland	askoas@dhr.state.md.us	No penalty for non-reporting.		
Massachusetts		Information not provided.		
Michigan		Information not provided.		

Minnesota	www.revisor.leg.state.mn.us/stats	Mandated reporter who negligently or intentionally fails to report is liable for damages caused by the failure.	Court	
Mississippi	www.mscode.com	None identified.		Has central registry.
Missouri	www.moga.state.mo.us/statutes/	Class A misdemeanor.	Court	
Montana	Rick Bartos, rbartos@state.mt.us	Misdemeanor criminal action. \$500 fine and 6 months in county jail.	County Attorney	“Rarely imposed.” Used more for education and to get attention.
Nebraska	http://statutes.unicam.state.ne.us/	Class III misdemeanor.	Court	Has central registry.
Nevada	Division for Aging Services	Information not provided.		
New Hampshire	Lynn Koontz, Administrator Division of Elderly and Adult Services	Any person who knowingly fails to make any report required by RSA 161-F:46 shall be guilty of a misdemeanor. All individuals are mandatory reporters.	Attorney General of Dept. of Justice	Have yet to be involved in a situation that has resulted in such a referral.
New Jersey	www.njleg.state.nj.us/	Information not provided.		Has central registry.
New Mexico		Information not provided.		
New York	www.assembly.state.ny.us/leg/	None identified.		
North Carolina	Vicky Kryk, Vicky.kryk@ncmail.net NC Division of Social Services	No penalty for non-reporting.		
North Dakota		Information not provided.		
Ohio	Shelly Boyd, boyds@odjfs.state.oh.us	Designated professionals who fail to carry out their reporting responsibilities under the law may be subject to a fine of not more than \$500.	Not specified	
Oklahoma				
Oregon	Aileen Kaye, Abuse Prevention Unit Aileen.p.kaye@state.or.us Seniors and People with Disabilities Dept. of Human Services	Class A violation.	District attorney	Case never been acted on.
Pennsylvania	James Bubb, jbubb@state.pa.us Pennsylvania Dept of Aging	Violations and penalties shall be determined by the Commonwealth agency that regulates the facility. The Commonwealth agency may issue an order assessing a civil penalty of not more than \$2,500. A person required to report and who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation. If the agency learns of a refusal to complete all reporting requirements, the agency shall notify the police.	State agency	
Rhode Island		Information not provided.		

South Carolina	www.state.sc.us/dss/aps/apslaw.htm	Persons who knowingly and willfully do not report a/n/e are guilty of a misdemeanor and, upon conviction, must be fined not more than \$2500 or imprisoned not more than one year. Also subject to disciplinary action as may be determined necessary by the appropriate licensing board.	Court	Suspicious deaths must be reported to medical examiner.
South Dakota	www.state.sd.us/social/ASA/protective	None identified.		
Tennessee		Information not provided.		
Texas		Information not provided.		
Utah		Information not provided.		
Vermont		Information not provided.		
Virginia	Terry A. Smith, Adult Services Program Manager Va. Dept. of Social Services	Not more than \$500 for the first failure and not less than \$100 nor more than \$1,000 for any subsequent failure.	Courts	
Washington	Lori Melchiori, APS Program Manager Aging & Adult Services Administration Home and Community Services Div. melchl@dshs.wa.gov	Gross misdemeanor punishable by up to a year in jail and a fine of up to \$5,000.	Prosecuting attorney	Citizen can pursue civil lawsuit.
West Virginia	Charlene Fields, cfields@wvdhhr.org W. Va. Dept. of Health and Human Resources	Misdemeanor; upon conviction, fined not more than one hundred dollars or imprisoned in county jail for not more than 10 days or both fined and imprisoned.	Circuit Court	
Wisconsin	Jane Raymond, raymoja@dhfs.state.wi.us Advocacy and Protection Systems Developer Bureau of Aging and Long-Term Care Services	No mandated reporters.	NA	
Wyoming	Legisweb.state.wy.us/statutes/titles/title35/chapter20.htm	Guilty of misdemeanor punishable by imprisonment for not more than one year, a fine of not more than \$1,000, or both.	Court	Has central registry.