

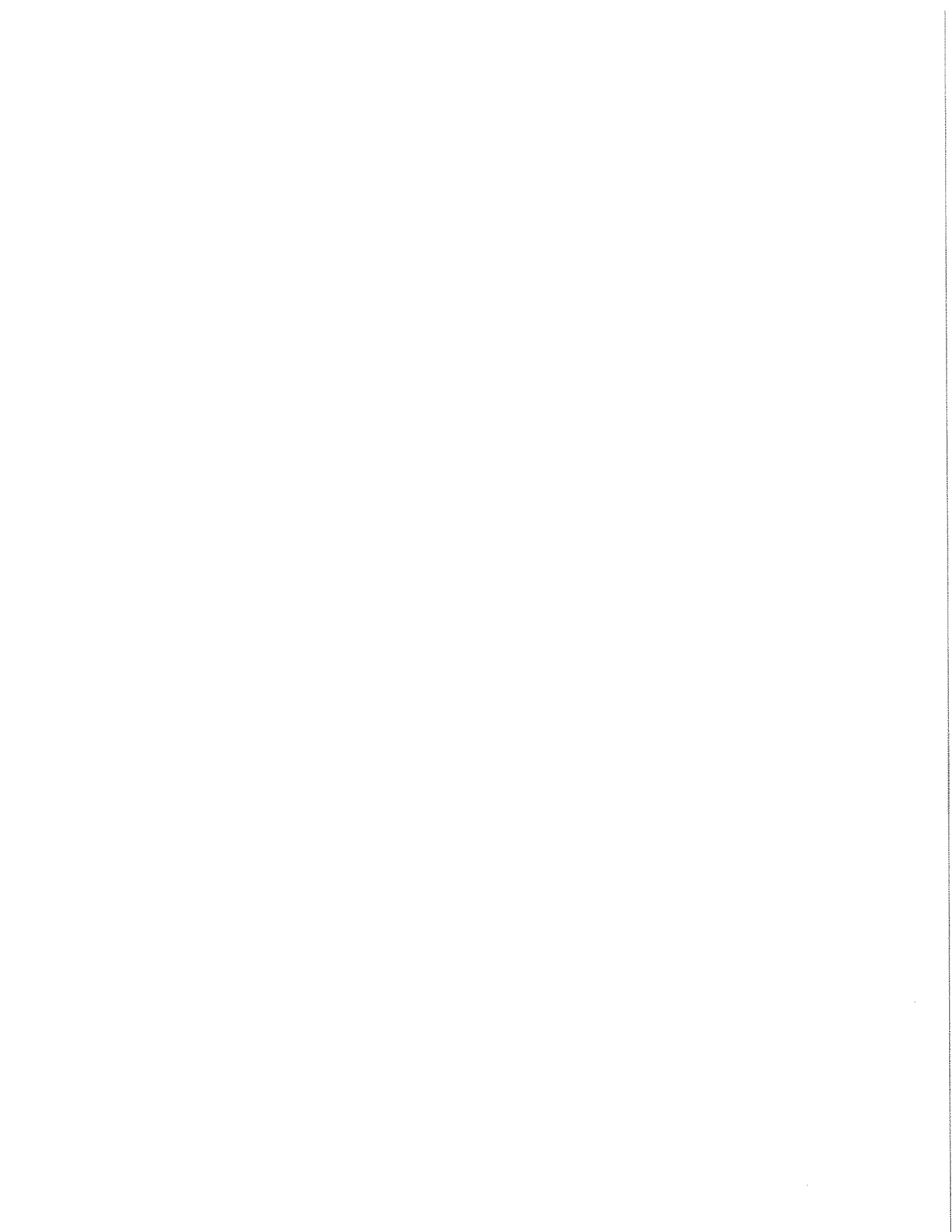
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# **ABUSED & NEGLECTED: A Roadmap for Improving Arizona's Adult Protective Services**

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## EXECUTIVE SUMMARY

Individuals with disabilities are more than two-and-a-half times more likely to be violently victimized than those without disabilities.<sup>1</sup> In Arizona, a multitude of public, private and nonprofit organizations exist to protect vulnerable adults from this high rate of harm. For one state program, it's the central focus. Adult Protective Services, or APS, aims to be a program that works with and for vulnerable adults to promote their protection while encouraging their independence.

Since Arizonans with intellectual and developmental disabilities (I/DD) are at a high risk for abuse, the Arizona Developmental Disabilities Planning Council wrote *Abused & Neglected: A Roadmap for Improving Arizona's Adult Protective Services*. This report explores Arizona's APS system, its ongoing challenges, and possible solutions. It also features what other states are doing to improve and how these states compare to Arizona.

Despite every state and U.S. territory having an APS program, there is no national legislation defining the structure and role of APS. As a result, APS programs nationwide struggle to provide adequate services to vulnerable adults. Definitions of vulnerable adults vary by state. Moreover, agreeing on who meets Arizona's definition can be difficult, even among key protection organizations.

The confusion over the adult-focused program's role plays a large part in its challenges. Reporting methods at the Arizona Department of Child Safety (DCS) are well-known and utilized often. Yet often, law enforcement agencies, residential and in-home service providers, day programs and other entities that serve vulnerable adults do not understand the internal processes of APS. When someone does make a report, findings are not consistently shared with the original reporter. This can leave the reporter unaware if the victim is safe as a result of APS intervention.

Add high caseloads and a puzzling lack of education and training requirements for APS workers, and what comes to light is a picture of an overextended workforce in charge of vulnerable adults in crisis.

Within the state, categories of maltreatment are broad. Sexual abuse is not singled out, and APS investigators do not investigate emotional abuse, which is a criminal offense in Arizona. A lack of training on trauma-informed care or specialized skills for APS workers serving individuals with I/DD further exacerbates investigation challenges. Furthermore, there are very few measures or indicators that determine the status of an APS case that has closed. Substantiation rates that confirm a perpetrator did the crime remain below 1% of cases closed from January to June of 2019.

If a case of maltreatment is substantiated, the perpetrator is placed on the APS registry after a lengthy process. The APS registry is a database set up for some organizations to check before hiring someone to take care of vulnerable adults. However, the effectiveness of having a registry on the safety of vulnerable adults has not been studied in Arizona.

In addition, federal funding of APS systems has shrunk rather than increased despite the rate of population growth over the years. In fiscal year (FY) 2020, APS received \$9.3 million in federal

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<sup>1</sup> Harrell, E. (2017). Crime against persons with disabilities 2009-2015- statistical tables. U.S. Department of Justice: Bureau of Justice Statistics.

monies from Victims of Crime Act (VOCA) grants, though this is not a dedicated funding stream. An extra \$6.7 million came from the state's general fund. Each year additional funds from Arizona state legislators have not consistently materialized to fill the gap. Meanwhile, communications to APS are on the rise. This combination of factors in Arizona has created a reactive instead of a proactive framework towards abuse and exploitation of vulnerable adults.

Several recommendations could improve the system. At the federal level, lawmakers should create standard definitions of abuse and stable annual funding streams to provide more protections for vulnerable adults through state APS programs. Additional training and education requirements for workers could improve substantiation rates. Better collaboration with law enforcement, family advocacy centers, and judges, and an increased focus on forensic interviewing skills would also advance this goal. Another way to improve outcomes is to create mobile APS response units with medical professionals alongside investigators to obtain medical proof a person is truly vulnerable, which would make it easier to substantiate a case.

To strengthen operations of the program, an outside audit would provide feedback on program effectiveness and recommendation to improve in the absence of outcome data. In addition, legislation creating a community advisory board made up of public and private stakeholders in collaboration with APS would not only provide additional guidance, it would increase transparency, and build public trust. This board would review current laws and regulations and data needed to increase the effectiveness of the program.

Arizona APS has made strides in improving some of its systems in the second half of the 2019 fiscal year. This includes tracking the number of clients who are part of the Division of Developmental Disabilities, releasing quarterly data reports, producing short informational videos to raise public awareness, and implementing a three-year, \$1.3 million training grant from the federal Administration for Community Living to improve its investigations. These efforts are a start. However, legislative and organizational changes must be made to build public trust and increase its effectiveness. This report serves as an entry point for state leaders and program staff to begin the dialogue toward a successful transformation.

## INTRODUCTION

An 80-year old man with significant disabilities was transported to an Arizona emergency room for severe dehydration and malnutrition. His toenails were overgrown, and his hair was matted. He hadn't bathed in weeks, if not months, and was delirious from dehydration. When he was admitted to the hospital, a social worker called APS. The APS staffer told the social worker the case could not be investigated. At the time, state statute dictated that APS could not investigate unless a "pattern" of neglect had been established. A 2019 change in state law ushered in by Senate Bill (SB) 1538 now allows a single incident of neglect to trigger an investigation.

The rate of violent victimization of individuals with disabilities is more than two-and-a-half times higher than those without disabilities.<sup>2</sup>

*The rate of violent victimization of individuals with disabilities is more than two-and-a-half times higher than those without disabilities.*

Consequently, the number of calls to Arizona's APS has more than tripled from 2010 to 2018 and is

expected to grow as awareness around reporting abuse continues to increase. Confusion over the authority of APS workers is common among the wider community. Some police officers believe APS does not investigate cases, even though investigating cases is its primary role in Arizona. Another common misconception is that APS staff can remove a person from a physical environment and place them elsewhere if that person is being maltreated. There is also a lack of clarity over who can be served by APS.

The time is now to address some of the more urgent issues APS continues to face. What is the purpose of Arizona's system of protection for vulnerable adults as it operates now, and how effective is it? Who fits the definition of vulnerable adult, and what constitutes maltreatment? And how do we strengthen APS so that victims are safer after contact with the program is made? This report will answer these questions by giving an overview of Arizona's APS system, explaining the significant barriers that confront the APS system nationally, and finally explaining how Arizona has fared in this context. It will conclude with best practices and recommendations to better protect vulnerable adults in Arizona.

## ADULT PROTECTIVE SERVICES IN ARIZONA: AN OVERVIEW

According to the APS website, the stated vision of the program is to ensure Arizona's vulnerable adults are "thriving free from abuse, neglect and exploitation." It is a small program under the Division of Aging and Adult Services (DAAS) within the Department of Economic Security (DES), making up less than 15 percent of the DAAS budget. The APS hotline is available to anyone who would like to report maltreatment of a vulnerable adult.<sup>3</sup> Maltreatment is separated into four categories: abuse, neglect, self-neglect, or exploitation (see definitions in Appendix A). It is important to note that emotional abuse of vulnerable adults, which includes a pattern of threats, intimidation, and bullying, isn't included in this list of investigable offenses. The APS call center is open Monday through Friday, from 7:00 a.m. to 7:00 p.m., and from 10:00 a.m. to 6:00

<sup>2</sup> Ibid.

<sup>3</sup> While definitions of who gets served by adult protective systems vary, in Arizona a vulnerable adult is "an individual who is 18 years of age or older and who is unable to protect himself/herself from abuse, neglect or exploitation by others because of a physical or mental impairment." It includes incapacitated person, which is "a person who is impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person" per Arizona Revised Statutes § 46-451 and § 14-5101. Although covered by A.R.S. § 13-3623, emotional abuse of vulnerable adults isn't investigated by APS.

p.m. on weekends and holidays. In addition to the hotline, the public can submit an online report through the APS website 24 hours a day, 7 days a week.<sup>4</sup>

The number of communications made to APS have grown exponentially in recent years. In FY 2018, the number of communications to APS reached 31,240, an increase of approximately 70 percent over the previous five years. The number of allegations investigated totaled 17,062, including abuse, exploitation, neglect and self-neglect. The majority of cases involve adults 60 and over, while about 27 percent of them were victims under the age of 60.

Approximately 34 percent of all investigations were categorized as self-neglect, with abuse closely following at 25 percent (Figure 1). Most investigations were completed in the family home (63 percent), while 22 percent were completed in a residential facility. Trending with previous years, 13 percent of the investigations had 'unknown' reported as the living arrangement because the investigator was unable to locate the client. About 1 percent of investigations involved victims who were homeless.

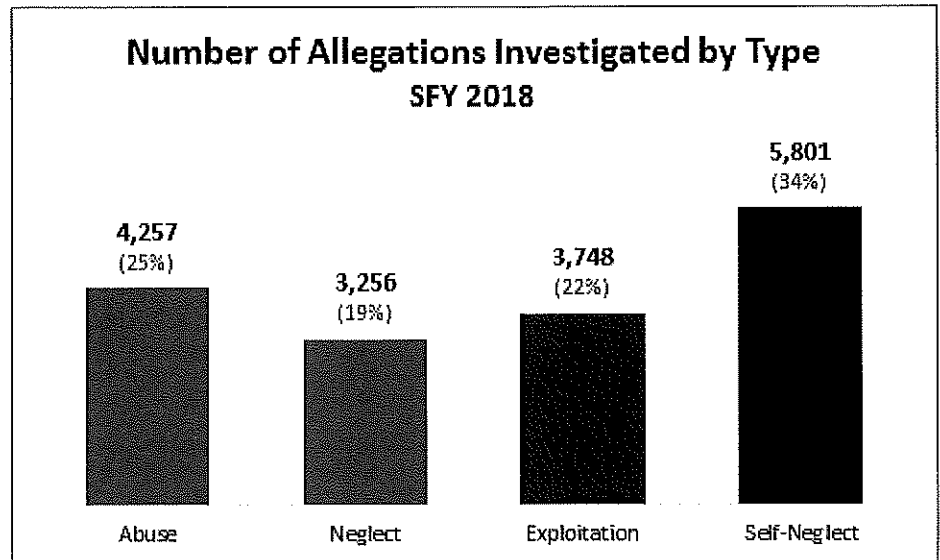


Figure 1. Source: AZ APS Annual Report, FY 2018

#### PRIORITY LEVEL

#### RESPONSE TIME

**1**

Qualifying problem with imminent and substantial risk of life-threatening harm and/or a case highlighted by the media.

ONE Business Day

**2**

Qualifying problem with aggravating circumstances.

TWO Business Days

**3**

Qualifying problem with mitigating or no aggravating circumstances.

THREE TO FIVE Business Days

Figure 2. APS Priority Levels and Response Times, per AZ Administrative Code, R6-8-206

In 2018, over half (55 percent) of all reports made to APS were investigated. The rest of the contacts were classified as "information and referral," where a staff member helps connect the person reporting to services in the community. When a report is made, an APS customer service representative (CSR) from the Central Intake Unit (CIU) must decide if the alleged victim meets the vulnerable adult criteria outlined by APS. If the person is deemed vulnerable, the CSR assigns a priority level to the case. The priority level determines the response time, which falls between 24 hours to five business days.<sup>5</sup> The CSR writes a

<sup>4</sup> To make a report, call 1-877-SOS-ADULT (1-877-767-2385) or go to <https://des.az.gov/services/aging-and-adult/adult-protective-services/file-aps-report-online>.

<sup>5</sup> APS Website. <https://des.az.gov/services/aging-and-adult/adult-protective-services/file-aps-report-online>. Accessed August 29, 2019.

narrative and completes the *Arizona Guided Decision-Making Tool*, which helps them make the decision whether the case is an information or referral call, or a priority 1, 2, or 3 investigation. The case is routed to an investigator who will attempt to meet the victim in person within that time frame (Figure 2) to establish if maltreatment has occurred.

If the incident being investigated potentially resulted from criminal activity, APS workers are required to contact the appropriate law enforcement entity and file a report. Cross-reporting to other agencies helps APS coordinate the multiple service systems available to support the vulnerable adult. However, cross-reporting has been inconsistent. According to its leadership team, APS has recently taken significant steps to increase communication, including creating a process flow map for their staff and meeting regularly with other divisions and departments. The Division of Developmental Disabilities (DDD) should be notified if the victim of maltreatment is a DDD member. Licensing agencies, like the Arizona Department of Health Services, are also notified if the incident pertains to quality of care at a licensed facility.

Once an investigation is opened, a case plan is developed with the participation of the vulnerable adult or vulnerable adult's representative. The investigation may include interviews to obtain supporting information and a review of program records and legal documentation. An assessment of the vulnerable adult takes place to confirm that the individual falls under the legal definition of "vulnerable adult" and to inform the case plan, which determines what resources are needed to keep the individual safe. The assessment of the individual includes the adult's physical, cognitive, psychological, and functional status, as well as the living environment, support system, and strengths.

*In practice, incident reporters have shared they often don't hear anything about the case after they made a report.*

Past APS clients have said the process of determining whether a potential victim is qualified as vulnerable can come across as too prescriptive, and even demeaning and threatening at times. It is not always necessary to assess a client's living situation when the abuse occurred in another setting. For example, an individual who used a wheelchair reported she was sexually assaulted in a hospital by a staff member. Upon returning home, the APS investigator assessed her living situation and functional and cognitive status without addressing the charges of assault. Feeling further victimized, the individual asked the investigator to leave before the interview was completed.

Officially, cases are closed for a variety of reasons. Some of the more common reasons are:

- A client is deemed not vulnerable;
- The person is determined to be safe after changes are made or is referred to services;
- The person refuses services;
- A case is deemed verified and/or substantiated/unsubstantiated;
- Contact with the vulnerable adult cannot be made after three attempts.

It is Arizona APS policy that only upon case closure will the reporter and the victim be informed about whether a case has been substantiated, verified, or unsubstantiated. They are also informed if an alleged perpetrator requests a formal appeal to the allegations. In practice, reporters have shared they often don't hear anything about the case after they made a report, even after the case is closed. Providers state that at times their staff have to call APS and find



an investigator willing to share investigation outcomes. This is a concern because the employer does not know whether it is safe to have the accused staff member return to work with vulnerable adults.

Regardless of whether investigators verify any maltreatment occurred, they may refer or provide different types of support, with consent from the individual. APS investigators may refer the individual to utility assistance programs, attendant care, legal services, behavioral health, crime victim compensation, domestic violence resources, or other services. Although APS administrators state victims are referred to counseling on a case-by-case basis, investigators report this isn't always true. Clients who have been maltreated are typically not referred to any form of trauma counseling unless the person already receives behavioral health services. APS staff may also directly respond to a person's immediate needs by providing food, water, or electricity.

The Area Agencies on Aging (AAAs) receive funding authorized through DAAS to manage the cases of individuals in need of in-depth social services referred to them by APS workers. However, this comes at a cost in some regions. Some agencies already do not have enough resources to effectively serve the waitlist of individuals from the older adult and disability community.

On tribal land, tribal social services should be contacted when vulnerable adult maltreatment occurs. In these locations, APS only participates in a small number of investigations at the invitation of the respective tribal councils. In 2018, the program had memorandum of understanding (MOU)<sup>6</sup> arrangements with Salt River Pima-Maricopa Indian Community, Fort Mojave Indian Tribe, and the Colorado River Indian Tribe. This MOU allows APS to conduct investigations involving vulnerable adults who live on tribal land that are not members of the tribe. Tribal Social Services conducts investigations and provides service referrals to members who are vulnerable adults residing on tribal land.

## SUBSTANTIATION RATES AND THE APS REGISTRY

The public often doesn't understand the difference between a verified and substantiated case and how each occurs – and for good reason. The journey to substantiation is a convoluted process. The outcomes of an APS investigation are captured by three terms – unsubstantiated, verified and substantiated. A case is unsubstantiated when there is not enough evidence that abuse, neglect, self-neglect, and/or exploitation has occurred. On the other hand, a report is deemed verified when abuse, exploitation, or neglect is proven – a perpetrator does not have to be identified. A substantiated case takes it a step further, requiring a perpetrator to be identified. The identified perpetrator cannot be a vulnerable adult themselves. Moreover, in a substantiated case, enough evidence must be collected to conclude there is a 51 percent likelihood an alleged perpetrator was responsible for maltreatment. Thus, cases may be verified but not substantiated if the incident is determined to be self-neglect or the perpetrator was either a vulnerable adult or never identified.

*Cases may be verified but not substantiated if the incident is determined to be self-neglect or the perpetrator was either a vulnerable adult or never identified.*

<sup>6</sup> An MOU is a formal agreement between two or more parties.

To confuse the issue further, APS staff does not substantiate cases. APS staff can only propose that cases should be substantiated (see Appendix B). APS submits the proposal to substantiate to the APS Appeals Specialist with a summary of the investigation and evidence. The Specialist reviews the file for completeness before referring to the Arizona Attorney General's (AZAG's) office to make a final recommendation for substantiation.

The AZAG's office uses the same rule for substantiation as APS – is there 51 percent of evidence to support the conclusion of substantiation?

*No one on the registry is legally allowed to work with vulnerable adults in many state-contracted settings in Arizona that care for vulnerable adults.*

If the recommendation is made for substantiation by the AG's office, the perpetrator is notified and can appeal it in administrative court. If the perpetrator chooses not to appeal, the Appeals Specialist places their name on the registry. If the perpetrator, however, chooses to appeal, there will be a hearing where the judge will issue a ruling.<sup>7</sup> This ruling will ultimately be upheld, amended, or rejected by the DES director.<sup>8</sup> If the substantiation is upheld, the APS Appeals Specialist places the perpetrator's name on a statewide registry controlled by the program.<sup>9</sup> The perpetrator's name is not added until the administrative hearing process has been completed, confirming an APS proposal to substantiate a case. This process can take several months. Furthermore, the level of effort required to provide adequate due process is an issue with state APS abuse registries nationally, given the amount of time involved in attending hearings and providing evidence of investigation findings.

In addition, a gap in communication between law enforcement and APS could allow a perpetrator convicted through the criminal justice system to not be placed on the APS registry for months. No one on the registry is legally allowed to work with vulnerable adults in many state-contracted settings in Arizona that care for vulnerable adults.<sup>10</sup> At last count, the Arizona APS registry contains approximately 1,400 names<sup>11</sup> added over the last 9 years. This is a relatively small number, when considering that the national average is 2,754.<sup>12</sup>

Arizona's substantiation rates have historically been low. Data from January 1 – June 30, 2019 show substantiation rates of less than 1 percent (0.43%).<sup>13</sup> APS officially states several reasons for its low substantiation rates:

- Difficulty obtaining medical documents proving vulnerability, especially within the investigative time frame, for clients who have not been to the doctor for several years;
- Unknown or unnamed caretakers for facility and group home cases;

<sup>7</sup> It is unclear whether administrative judges are trained in vulnerable adult issues.

<sup>8</sup> A.R.S. § 41-1092.08

<sup>9</sup> Arizona Adult Protective Services, 2018 Annual Report. See Appendix B for more details on the substantiation process.

<sup>10</sup> A.R.S. § 46-459 (G)

<sup>11</sup> This is an unduplicated count.

<sup>12</sup> [www.napsa-now.org/wp-content/uploads/2018/05/APS-Abuse-Registry-Report.pdf](http://www.napsa-now.org/wp-content/uploads/2018/05/APS-Abuse-Registry-Report.pdf)

<sup>13</sup> This rate was calculated using the APS/DDD Quarterly Reporting - the January to March 2019 and April to June 2019 reports. Total substantiated cases (n=32) was divided by the total number of closed cases (n=7418) from January to June 2019. When the "proposed to substantiate" cases (n=50) are added to the calculation, the rate increases to 1.1%.

- Clients are nonverbal or have significant memory issues so there is not enough evidence collected to move forward;
- Clients are reluctant to talk to APS or give investigators any information because they are protecting a family member or are afraid.

Not every state has an APS abuse registry of confirmed perpetrators; 26 states do. Substantiation rates in states with registries, like Arizona, are markedly lower than in states without them.<sup>14</sup> Every state also defines substantiation differently. To address the inconsistent definitions of substantiation, we instead analyzed states' total number of verified or confirmed maltreatment cases from states with published data to assess how Arizona compares. Of the seven states identified, Arizona's reported rate was at the bottom (Figure 3). Only 11 percent of Arizona's cases were verified in FY 2018.

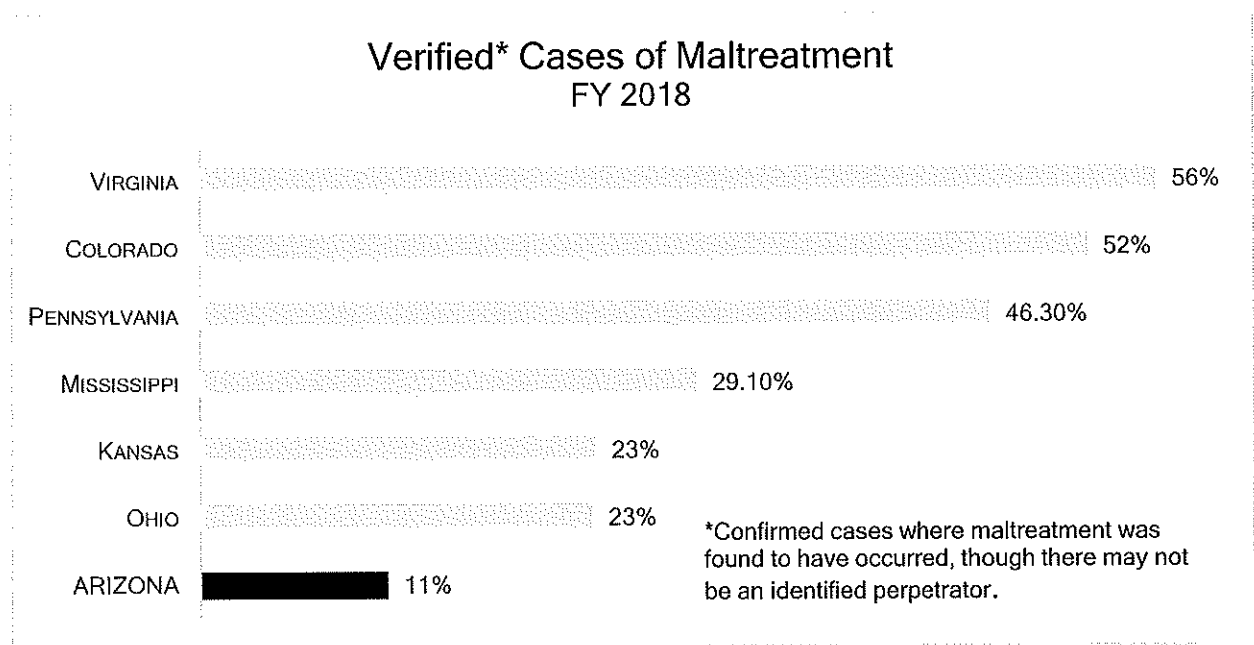


Figure 3. FY 2018 Verified Maltreatment Cases Among Published State Reports

<sup>14</sup> Adult Protective Services Abuse Registry National Report (2018). Retrieved from <http://www.napsa-now.org/wp-content/uploads/2018/05/APS-Abuse-Registry-Report.pdf>.

## ARE STATE APS REGISTRIES EFFECTIVE?

There have been unexpected consequences of registries that have led some states to do away with them altogether. Some states highlight that having an APS registry can shift the focus from providing services to vulnerable adults to conducting investigations to “prove” a perpetrator belongs on a registry. Investigations take longer because APS employees must gather evidence. Since registry placement can be appealed in administrative court, investigators can be taken away from current cases to attend appeal hearings. To alleviate this challenge, some states, such as Pennsylvania, have created separate units for providing protective services and conducting investigations, though this is not the standard.

Another effect of the registry system is it creates a false sense of security for employers, vulnerable adults, and families. People assume perpetrators who have victimized vulnerable adults will not be able to be employed by organizations that work with or provide services to this group. States that have one-time registry check requirements, like Arizona, can lead organizations to unintentionally hire or keep staff with substantiated maltreatment claims that occurred in other settings. Additionally, checking the APS registry is only mandated for some state-licensed organizations within the state. The perpetrator could continue working with vulnerable adults in unlicensed settings. APS programs do not formally share data with out-of-state counterparts, which can allow a perpetrator to be employed with vulnerable adults despite a substantiation of abuse in another state.

## EVALUATING DATA AND OUTCOMES

Outcome measures APS uses to measure its effectiveness need to be re-evaluated, strengthened, and expanded. The amount of time to close a case is one of the main performance measures employed by APS. APS leadership maintains that there is no set time frame in which cases must be closed. However, staffers at APS report a recent shift of priorities that holds investigators accountable to a 60-day case closure timeline. This has created a stressful high-pressure environment, which may encourage investigators and supervisors to close cases that have not been fully investigated.

In the second half of FY 2019, APS started reporting data on clients who are members of the DDD system. To date, they make up 9 percent of the total number of investigations. However, this is an underestimation of victims with intellectual and developmental disabilities (I/DD), as most of the 115,000 Arizonans with I/DD are not members of DDD.<sup>15</sup> APS does not consistently record disability information about victims. Officials state that reporters don't always know the disability type, or the vulnerable adult won't self-disclose a disability. Only 17 percent of cases closed between April and June 2019 identified a disability type. Without better data collection methods, it is impossible to know how specific populations with disabilities are being impacted by abuse in order to assist in prevention efforts.

Additional data will also improve reporting on investigation outcomes. Currently, no data is reported to determine what resources or assistance vulnerable adults received from investigators. It would be beneficial to publicly report the number of repeat cases of maltreatment reported about the same victim at different times; the reasons for not opening a

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<sup>15</sup> The I/DD prevalence rate is 1.58%. In June 2019, DDD reported serving 42,474 members with I/DD.

case for investigation; the reasons for case closures; and which agencies APS collaborated with in each specific case (e.g. law enforcement, ombudsmen, family advocacy centers, etc.). This data could identify what factors lead to positive outcomes, such as higher verification and substantiation rates, a reduction in repeat calls, successful service referrals to clients in need, and create greater transparency with the public. Adding a separate data category for sexual abuse to differentiate it from abuse, neglect, and exploitation is also necessary.

Arizona should also measure the performance of the APS registry process to determine if it is an efficient use of resources. Knowing how many APS proposals to substantiate are overturned by the AG's office or administrative court, how many are upheld, and the length of time to substantiate will point to any issues in the process itself. Cross-checking names on the APS registry with criminal history records, and learning how employers are using the APS registry, will determine if the registry is a viable solution to abuse prevention.

## NO FEDERAL OVERSIGHT AND LIMITED SUPPORT

APS programs have faced challenges since their inception over four decades ago. In 1974, Title XX of the Social Security Act created Social Security Block Grants (SSBGs) for the purpose of creating adult and child protection programs.<sup>16</sup> Arizona used these funds in 1978 to establish its APS program.<sup>17</sup> By 1981, all states had set up some form of protective service program for vulnerable adults despite no federal legislation or mandate to do so. Throughout the 1980s, there were calls for more federal funding and basic federal requirements for these new programs, but those efforts were unsuccessful. In 1980, approximately \$83 million, or \$258 million in today's dollars, was allocated by Congress for SSBGs. Today, funding is dramatically less than what was allocated in 1980—about \$30 million across 50 states (Figure 4). Moreover, the SSBG funding focuses on new programs, such as creating data collection systems – not sustaining existing APS systems or staff salaries.

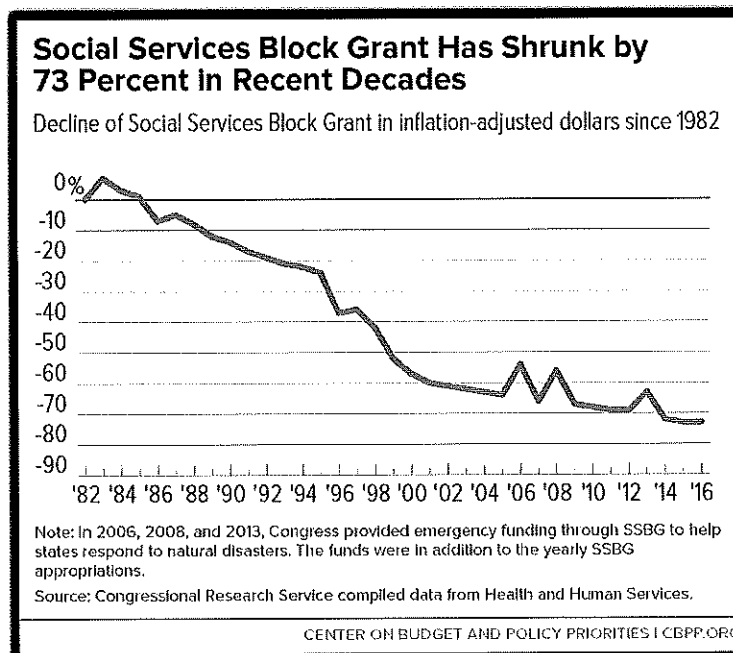


Figure 4. Percentage Decline in National SSBG Funding. Note: In FY 2019, Arizona received SSBG funds, none of which was\* allocated to APS.

<sup>16</sup> History: About Adult Protective Services from 1960 to 2000. Retrieved from <https://www.napsa-now.org/about-napsa/history/history-of-adult-protective-services/>

<sup>17</sup> A.R.S. § 46-452

Although adult systems across the country are underfunded, Arizona still falls below other states. The disparity is evident when comparing APS funding to Department of Child Safety (DCS) funding in Arizona. DCS received a total of \$379 million in federal and state funding for FY 2018,<sup>18</sup> and received 149,071 communications with 48,045 reports taken.<sup>19</sup> In the same fiscal year, Arizona APS received a total of \$14 million from state general funds and federal Victims of Crime Act (VOCA) grants. That year, the program received 31,240 contacts, with 15,063 cases opened. In FY 2020, the total amount is \$16 million, which does not include a three-year ACL grant for \$1.3 million. Although DCS provides more services at higher costs, such as adoption and foster care services, APS funding for investigative services is still disproportionately low. Arizona's APS budget also lags behind states with comparable populations (Figure 5).

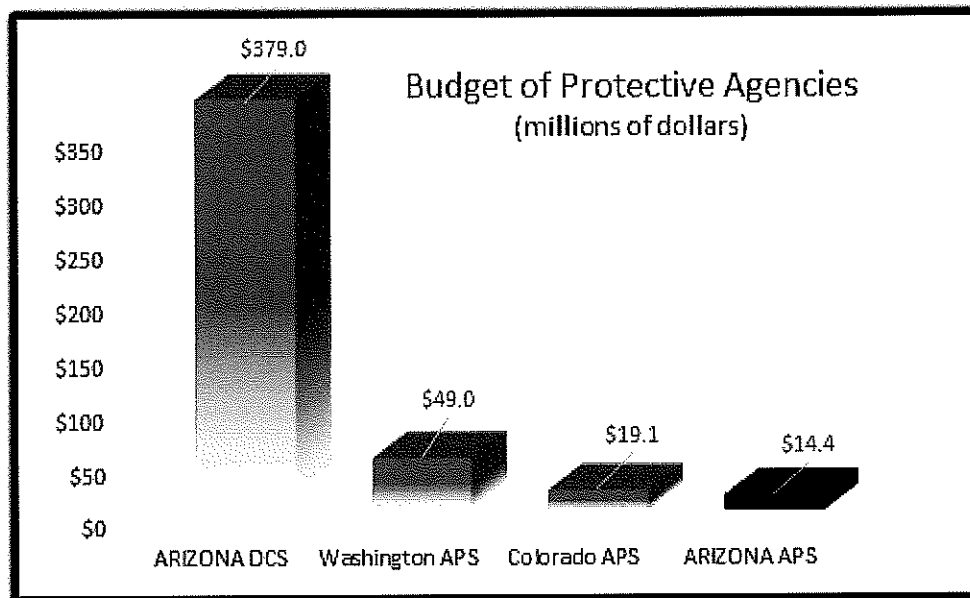


Figure 5. 2018 State APS Budgets Compared to Arizona's DCS

With more funding comes more requirements. DCS is legislatively mandated to report statistics to a national clearinghouse by the federal Child Abuse and Neglect Prevention and Treatment Act (CAPTA).<sup>20</sup> It publicly shares monthly data reports on numerous measures. These include historic data from the previous four years and the year-to-date totals for the current year. This state-by-state comparison detects trends and establishes baselines for prevention efforts and best practices across the nation – a practice that is also needed to decrease vulnerable adult maltreatment. But unlike DCS, APS is not required by state or federal law to report any internal statistics to aid these comparisons.

As a result, there are inconsistent policies surrounding data collection by state APS systems across the nation. Where they exist, state annual reports on adult protective systems vary by format, detail, data points, and who receives the information. While Arizona voluntarily provides a public annual report, which is easily accessible on its website, other states may only require

<sup>18</sup> Arizona Department of Administration Annual Financial Report for Year Ended June 30, 2018. <https://gao.az.gov/sites/default/files/Annual%20Financial%20Report%20June%2030%2C%202018.pdf>

<sup>19</sup> At DCS, "reports taken" identifies communications that led to investigations. At APS, communications that led to investigations are called "open cases."

<sup>20</sup> CAPTA establishes definitions, provides funding for every state, administers enforceable standards and reporting requirements, and develops training guidelines for child protection programs across the country.

data to be shared with state legislators. Some states include their report within another agency's annual report, making data more difficult to find.

Adding to the challenge, there is no set definition of who should be served by state adult protective systems. Some APS programs serve adults with disabilities and all individuals over the age of 60 or 65. Others have chosen to serve children and vulnerable adults within the same program, and some have definitions similar to Arizona's.

To implement the Arizona statutory definition of vulnerable adults, APS policy identifies a vulnerable adult as an individual who:

- is eighteen years of age or older;
- has a guardian or conservator;
- is a DDD or Arizona Long Term Care System (ALTCS) member;
- qualifies for serious mental illness (SMI) services;
- lives in a long-term care setting or DDD residential setting;<sup>21</sup>
- is unable to protect themselves from abuse, neglect, or exploitation due to physical or mental impairments;<sup>22</sup> and/or
- had previous contact with APS services as a victim or recipient of information and referral services.

If none of these criteria apply, establishing vulnerability of an adult becomes more challenging. Indicators must be present that an adult is unable to protect themselves from abuse, neglect, or exploitation by others due to a physical or mental impairment. In addition, other evidence is required to show the vulnerable adult is unable to remove themselves from the situation, get assistance from others, or recognize that maltreatment was occurring.

While vulnerability can be established by APS investigators without medical verification, administrative law judges often favor this type of documentation to uphold substantiations during the appeals process. If the documentation is not provided, substantiations can be overturned and the perpetrator is not added to the registry.

## **A NATIONAL STAFFING CRISIS**

In a national voluntary survey of adult protective programs across the nation, staffing problems emerged as a common challenge. Many struggle with hiring and retaining qualified candidates. A 2016 federal report found programs across the U.S. were not adequately training their staff. Eighteen states required less than one week of training and four required no training at all for their field investigators. The report also found that higher rates of education among employees equated to higher investigation and substantiation rates and improved employee morale.

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<sup>21</sup> These settings include nursing facilities, skilled nursing facilities, intermediate care facilities, hospice care, residential treatment facility, behavioral health inpatient facility, long-term care hospitals, memory care units, DDD group or adult developmental home, Arizona State Hospital, assisted living facilities (including adult foster care, assisted living homes, assisted living centers).

<sup>22</sup> This includes weakness, unsteady gait, falls and difficulty moving independently, any condition that impairs basic physical activities (walking, climbing stairs, reaching, lifting, or carrying), vision loss, hearing loss, speech communication.

Studies measured effectiveness using several types of indicators—investigation and substantiation of allegations and staff’s self-perceived effectiveness.”<sup>23</sup>

Considering these national findings, how does Arizona stack up? In Arizona, there are no minimum education requirements for any APS staff. In addition, changes in the training system of APS staff are required to fully prepare staff to work with a wide range of vulnerable adults.

The customer service representatives (CSRs) who staff the Central Intake Unit (CIU) hotline have no specified education requirements, simply a preference for “previous call center experience.” New hires are not required to have a high school diploma or a background in social services. This is concerning because the case notes from the initial intake are the investigator’s main tool to begin an investigation. Furthermore, this vital intake role is filled by the lowest paid employees at APS. There is also limited training. CSRs receive one week of training that includes making screening decisions on what types of cases should be investigated. CSRs also receive shadowing and observing calls as part of the onboarding process.

Individuals employed in the investigation unit generally have more education than a CSR. Hiring managers prefer to see some college and investigative experience in law enforcement or social work backgrounds; however, it is not required. APS will accept at least two years of experience working in the CIU in lieu of other experience requirements. Investigators are trained on dementia and interviewing techniques, preliminary investigative skills, community resources, and APS data management systems. In January 2020, Arizona started requiring two weeks of classroom training for investigators, an increase from the previously required one week. There is also mentoring and on-the-job shadowing for new investigators.

#### **Federal Grant to Enhance Arizona’s Investigator Training**

ACL awarded a three-year \$1.276 million grant to Arizona’s APS. The grant will provide investigators with forensic interviewing training. It is expected to increase investigators’ ability to assess client risk, develop quality case plans, and assist clients with additional services and benefits.

Ongoing annual training is not required. There is also no training about interacting with people who have mental illness or I/DD or using trauma-informed approaches. Even members of the investigation unit dedicated to victims enrolled in DDD have never received training on how to effectively interact with adults with I/DD, a topic that can benefit the entire system that protects vulnerable adults. Vulnerable adults are not always seen as credible witnesses to their own abuse. If the person is nonverbal, has cognitive disabilities, or the guardian is the alleged perpetrator, an investigation becomes more complex.

Gathering information through interviews from people with I/DD, especially in an adversarial setting, requires specialized skills. Investigators need to know how to build trust and rapport, choose a suitable interview location, read body language or nonverbal cues, and use plain language or other accommodations to communicate. Learning how to accommodate the needs of individuals with I/DD can yield better information and more fruitful investigations.

<sup>23</sup> Final National Voluntary Consensus Guidelines for State Adult Protective Services Systems September, 2016. Administration for Community Living. <https://acl.gov/sites/default/files/programs/2017-03/APS-Guidelines-Document-2017.pdf>.



## APS WORK CULTURE

In addition to training barriers, there are on-the-job pressures, along with limited opportunities for investigators to be promoted. It is typical for APS investigators to receive five to seven new cases a week. Each investigator is currently responsible for approximately 35 active cases at a time, though the goal is to assign 25 cases per investigator.<sup>24</sup> In rural areas, the number can be as high as 49 cases. There is one unit specializing in cases involving DDD members; however, the number of DDD cases are too numerous for the specialized team to adequately investigate. Overflow cases are assigned to other teams who are not experienced in working with I/DD populations.

Information silos can also significantly delay an investigation. For example, when a case is opened, it is moved from the intake unit to the investigation unit. If an investigator has a question about the intake notes, they are not allowed to contact the CSR who conducted the initial screening of a case. The investigator must share any questions with their supervisor, who contacts the CIU supervisor, who then contacts the CSR to ask the question. The information is then passed back through the chain of communication back to the investigator.

## NEXT STEPS FOR ARIZONA

Changes need to be made to Arizona's APS program to build public trust and increase its effectiveness. First and foremost, there needs to be more transparency about how APS conducts investigations. APS must increase outreach to educate agencies and the public about the role APS plays in the protection of vulnerable adults in our communities throughout the state. It is also critically important to create a community advisory board for APS. The board would include state, local, community, tribal, and public and private stakeholders in vulnerable adult services, as well as vulnerable adults and families. They would work with APS and analyze current statute and policy to improve the effectiveness of APS, as well as advise on necessary data to determine the program's success.

The aim of APS is to promote the safety and self-determination of vulnerable adults. However, current state law does not give APS authority to investigate and substantiate cases of emotional abuse. For people with I/DD, bullying and intimidation are pervasive and lifelong concerns. APS authority needs to be expanded to include investigating incidents of emotional abuse.<sup>25</sup> By doing so, the program would be more responsive to the needs of all vulnerable adults.

Collaboration with police and family advocacy centers, which offer forensic interviewing and victim services, can strengthen investigations and increase substantiation rates. The extent of collaboration between law enforcement and APS varies across Arizona but must be strengthened to ensure adequate protection of vulnerable adults. Currently, APS investigators lose access to forensic interviewers once police close their own investigation. Funding an on-call forensic interviewer, or mobile unit, to travel with APS investigators would strengthen the investigative process. Staffed with a healthcare professional, this mobile unit could provide medical statements to assess vulnerability of the victims more efficiently.<sup>26</sup>

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<sup>24</sup> Personal Communication with APS staff. February 21, 2019.

<sup>25</sup> Response to request for legislative recommendations for the AZ House of Representatives Ad Hoc Committee on Abuse & Neglect of Vulnerable Adults (2019).

<sup>26</sup> *ibid.*

APS should complete an outside audit of its operations. Any new system, intake, investigation, or data collection system should be first informed and tested by APS staff before program-wide implementation. Staff are the most knowledgeable of the shortcomings of the current system and can suggest immediate applicable solutions. Engaging APS staff could also increase job satisfaction, organizational commitment, and motivation. Additional training and education requirements for APS intake staff and investigators are also needed to improve substantiation rates. APS staff, as well as police officers, medical staff, administrative law judges, and victim advocates, should be trained in how to effectively serve people with I/DD.

And finally, federal legislation must be created that permanently funds and establishes consistent requirements for APS systems across the country to ensure accountability, transparency, and effectiveness. Similarly, it is imperative that APS receive adequate, continuous state funding to increase the number and quality of staffing, improve training, and support a data reporting system that ensures responsiveness to vulnerable adults and their families. Incremental increases in funding are not enough to foster significant improvement in the effectiveness of APS.

It is time we recognize that changes are needed to effectively address vulnerable adult maltreatment in Arizona. As a state, we need to ask ourselves, are we ready to make them?

## APPENDIX A – GLOSSARY

**Abuse** – under Arizona state law, abuse is defined as intentional infliction of physical harm, injury caused by negligent acts or omissions, unreasonable confinement, sexual abuse or sexual assault

**Administration for Community Living (ACL)** – a federal agency housed under the United States Department of Health and Human Services that provides assistance on national aging and disability issues through grants and research

**Adult Protective Services (APS)** – a state program housed under the Arizona Department of Economic Security within its Division of Aging and Adult Services that conducts investigations into maltreatment of vulnerable adults

**Area Agencies on Aging (AAA)** – a public or nonprofit private agency that coordinates services at the local level to advocate for older adults and people with disabilities, and offers information on programs and community supports

**Central Intake Unit (CIU)** – the group operated by APS in charge of answering calls and online reports and determining whether a report is moved forward to APS investigators

**Child Abuse and Neglect Prevention and Treatment Act (CAPTA)** – a federal law that establishes definitions, standards, training guidelines, funding and reporting requirements for child protection programs across the country

**Department of Child Safety (DCS)** – a state agency in charge of child protection services in Arizona

**Division of Developmental Disabilities (DDD)** – a state program housed under the Arizona Department of Economic Security

**Emotional Abuse** – under Arizona state law, emotional abuse of a vulnerable adult is defined as a pattern of ridiculing or demeaning a vulnerable adult, making derogatory remarks to a vulnerable adult, verbally harassing a vulnerable adult or threatening to inflict physical or emotional harm on a vulnerable adult

**Exploitation** – under Arizona state law, exploitation is defined as the illegal or improper use of a vulnerable adult or the vulnerable adult's resources for another person's profit or advantage

**I/DD** – intellectual and developmental disabilities, defined as a permanent disability typically developed before the age of 22 that impacts a person's intellectual or physical functioning

**National Adult Maltreatment Reporting System (NAMRS)** - developed by the federal Department of Health and Human Services as a comprehensive, national reporting system for APS programs throughout the country

**Neglect** – under Arizona state law, neglect is defined as the deprivation of food, water, medication, medical services, shelter, supervision, cooling, heating or other services necessary to maintain a vulnerable adult's minimum physical or mental health

**Self-Neglect** – under state APS policy, self-neglect is defined as An adult's inability due to physical or mental impairment diminished capacity, to perform essential self-care tasks, including obtaining essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health or general safety; managing one's own financial affairs; and soiled or urine-soaked bedding. Self-neglect is not currently defined under Arizona state law in the Arizona Revised Statutes

**Social Security Block Grant (SSBG)** – federal grants issued under Title XX of the Social Security Act to local government entities who apply for funding for a wide range of regional community services

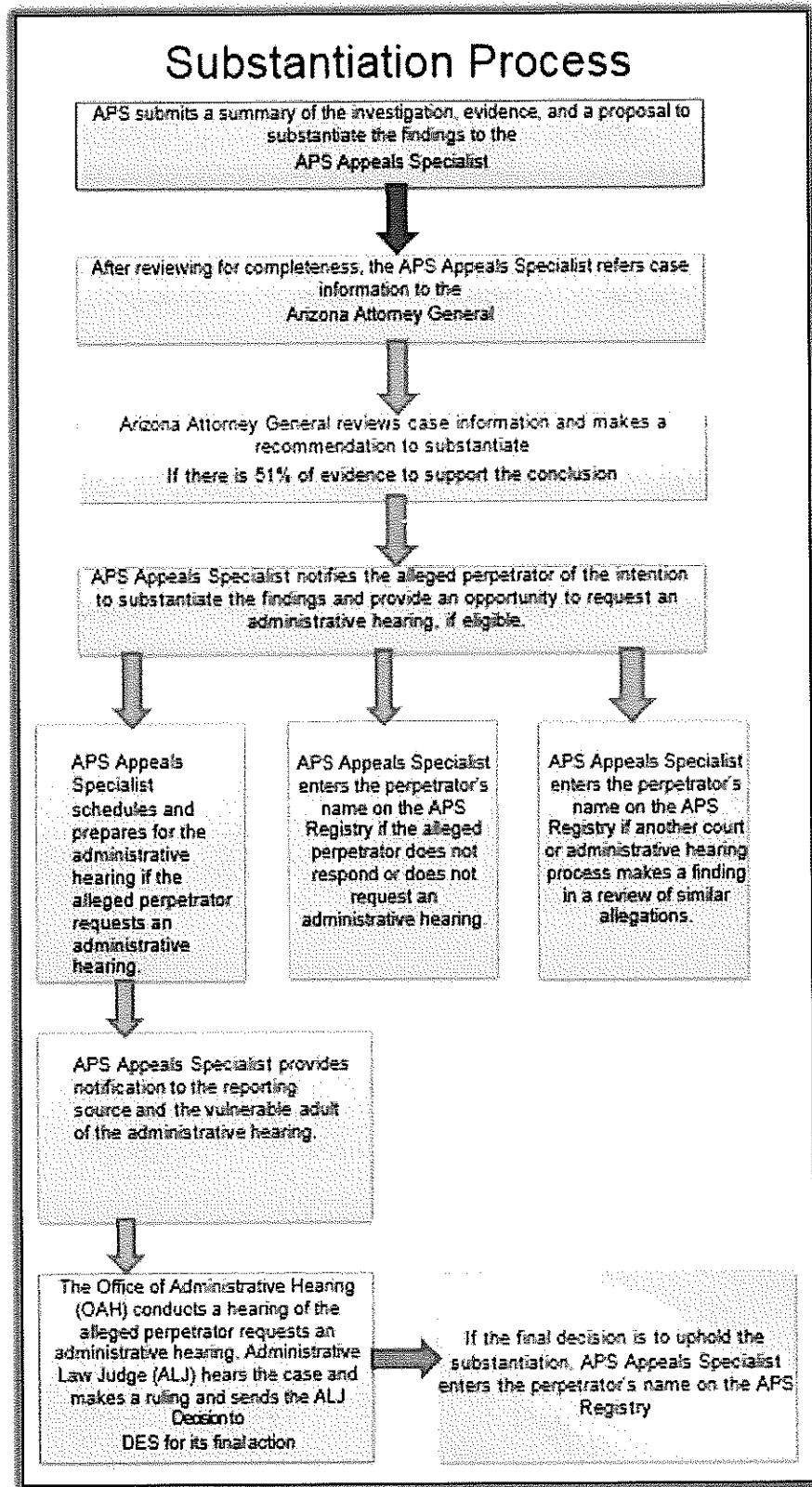
**Substantiation** – under state APS policy, substantiation of a case is defined as maltreatment was proven to have occurred after the APS investigator reviews evidence and a perpetrator is identified as the cause of the maltreatment. Cases may be verified but not substantiated if the incident is determined to be self-neglect or the perpetrator was also a vulnerable adult.

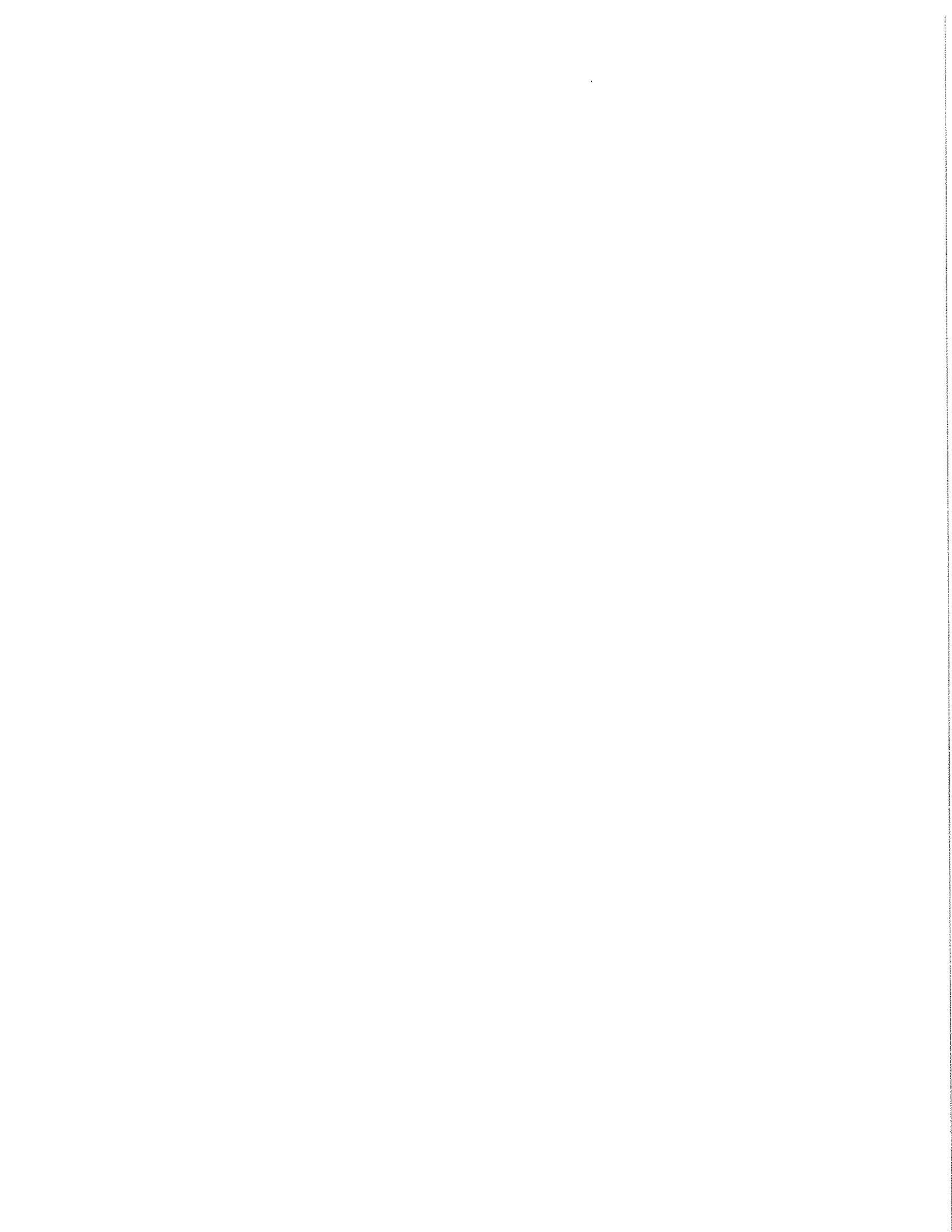
**Verification** – under state APS policy, verification of a case is defined as abuse, exploitation or neglect was proven to have occurred after the APS investigator reviews evidence

**Victims of Crime Act (VOCA)** – a federal law that created a federal victims-compensation account funded by fines assessed in federal criminal convictions, and that establishes provisions to assist state programs that compensate the victims of crimes

**Vulnerable Adult** – under Arizona state law, a vulnerable adult is defined as anyone 18 years or older who is unable to protect him or herself from abuse, neglect or exploitation by others because of a physical or mental impairment. This can also include an incapacitated person who is "impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person," according to Arizona Revised Statutes §14-5101

## APPENDIX B – ARIZONA APS FLOW CHART FOR CASE SUBSTANTIATION





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The Arizona Developmental Disabilities Planning Council is made up of individuals with disabilities, family members, professional stakeholders and state agency representatives appointed by the Governor of Arizona. We envision one community working together to achieve full inclusion and participation of people with developmental disabilities. We collect and publish research, fund grants, advance inclusion through advocacy and promote self-determination.

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