

Chapter VII. Protective Services

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I. OVERVIEW

A. Statutory Authority

The [Older Americans Act](#), originally enacted in 1965, permits states to receive federal funding to care for older Americans. In order to receive federal funding for protective services, Pennsylvania through the Department of Aging (PDA) must implement federal and state laws and regulations authorizing the provision of specific services to older adults.

The [Older Adults Protective Services Act \(OAPSA\), 35. P.S. 10225.101 et seq.](#), was enacted on November 6, 1987. The intent of the General Assembly was to provide for the detection and reduction, correction or elimination of abuse, neglect, exploitation or abandonment. OAPSA is the statutory framework for the statewide older adults' protective services (PS) program. The passing of OAPSA affirmed that it was the policy of the Commonwealth of Pennsylvania that older adults who lack capacity to protect themselves and are at imminent risk of abuse, neglect, exploitation or abandonment shall have access to and be provided with services necessary to protect their health, safety and welfare. It was not the purpose of OAPSA to place restrictions upon the personal liberty of incapacitated older adults, rather, OAPSA should be liberally construed to assure the availability of protective services to all older adults in need of them. Pursuant to [§10225.102](#) of OAPSA, such services shall safeguard the rights of incapacitated older adults while protecting them from abuse, neglect, exploitation or abandonment.

Legal Authority

Any reference to OAPSA, unless otherwise noted, is referring to a section or sections found within [35 Purdon's Statutes §§10225.101 to 10225.608](#).

Regulatory Authority

The General Assembly granted responsibility to the Department of Aging (PDA) as the State Unit on Aging for the development and implementation of the regulations and policies necessary to implement OAPSA. The regulations are located in [6 Pa. Code Chapter 15, Protective Services for Older Adults](#), effective November 26, 1988.

Governing Authority

This policy and procedural document, also referred to as the "Protective Services Chapter", does act to replace and repeal all Protective Services Aging Program Directives (APD), Aging Technical Assistance Bulletins (ATAB), Protective Services Updates (PS Updates), and Protective Services Regulatory References. This document is intended to provide guidance to the AAAs to effectively implement OAPSA and the related regulations referenced throughout the document.

Statutory and Regulatory Updates

In 1996, OAPSA and the related regulations were amended to require that certain facilities secure criminal history record information for any prospective employee. Obtaining the criminal history record information is commonly known as getting a “criminal history background check”. Once the criminal history background check information was received, the facility was not permitted to hire an applicant who was convicted of specific offenses. Such convictions are referred to as “prohibitive offenses”.

A conviction of any of these offenses disqualified a person from working in a facility for life. These “lifetime” bans were listed in the legislation; however, OAPSA did not provide the subject of a lifetime ban the opportunity to appeal the ban. Consequently, through litigation challenging the use of lifetime bans without the opportunity to appeal (Nixon I, Nixon II and Peake), the Commonwealth Court found the use of lifetime bans without the opportunity to appeal unconstitutional.

In 1997, a subsequent amendment to OAPSA required mandatory abuse reporting for administrators and employees of facilities. Both OAPSA and the related regulations require that an employee or an administrator of a facility must immediately report any suspected abuse to their local AAA. If the abuse being reported involves one of the four serious abuse types (serious physical injury, serious bodily injury, sexual abuse or suspicious death) the facility must report to law enforcement and PDA in addition to reporting to the AAA.

B. Definitions of Note

OAPSA defines the following terms as:

Older Adult - A person within the jurisdiction of this Commonwealth who is 60 years of age or older.

Older adult in need of protective services - An incapacitated older adult who is unable to perform or obtain services that are necessary to maintain physical or mental health, for which there is no responsible caretaker and who is at imminent risk of danger to his person or property.

At Risk (Merriam Webster dictionary definition) - Possibility of loss or injury

Sexual Abuse (OAPSA definition) - Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

Serious Physical Injury (OAPSA definition) - An injury that causes a person severe pain; or significantly impairs a person’s physical functioning, either temporarily or permanently.

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Serious Bodily Injury (OAPSA definition) - Injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

II. IMPLEMENTATION

The 52 AAAs serving the 67 counties of Pennsylvania implement the protective services program at the local level, on behalf of PDA, as established by state and federal law. In addition, the AAAs work on behalf of PDA under a contract referred to as the Cooperative Agreement. Within PDA, the Protective Services Office is responsible for quality assurance monitoring and providing training to each AAA to ensure OAPSA and related regulations and policy are implemented in accordance with OAPSA and the related regulations and PDA policy (see the Cooperative Agreement.)

A. ANNUAL PLAN

Under [§10225.301\(c\)](#) and [§15.12\(b\)](#), each AAA must submit a protective services plan as part of its annual plan. The plan must describe the local implementation of the protective services program, including the organizational structure, staffing, mode of operations and financing of protective services, as well as the provisions made for purchases of services, interagency relations, interagency agreements, service referral mechanisms, and locus of responsibility of cases with multiservice AAA needs. For the purpose of advising the agency on medically related issues encountered during assessment and the development of service plans, each AAA's organizational structure shall include the consultation services of a registered nurse or physician licensed to practice in the commonwealth. Additionally, the plan must include how the AAA, designees, and service providers will assure the privacy and confidentiality of records.

The plan must also include a description of the local process for delivering protective services to older adults who need them, including 24-hour capability to receive and investigate and take any necessary action arising from the investigation.

B. DETECTION:

1. Protective Service Investigations

During every investigation, the PS caseworker is required to assess for all potential types of abuse. By assessing for all types of abuse, the PS caseworker may identify that the older adult is experiencing other types of elder abuse in addition to the one(s) reported at the time of intake.

C. PREVENTION:

1. Community Outreach

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Under [§15.11\(d\)](#), PDA develops and maintains a campaign of public information and education about the need for and availability of protective services, including, but not limited to, brochures, pamphlets, posters, and online training modules. Some of these materials can be found [here](#), or obtained through an AAA's assigned PS Specialist.

Under [§15.12\(c\)](#), an AAA is required to conduct within its planning and service area an ongoing campaign designed to inform and educate older adults, professionals, and the general public about the need and availability of protective services.

2. Protective Service Investigations

A protective services investigation can be initiated to detect and/or prevent abuse, neglect, exploitation and abandonment. An abusive physical act did not have to occur for a Report of Need (RON) to be taken and investigated.

The purpose of the investigation is to determine if the older adult is (currently) or was in need of protective services at the time of the alleged abuse. Through investigation, the PS caseworker is to identify and mitigate or eliminate any risk(s) posed to the older adult and act to prevent further exposure of an older adult to the identified risk(s). For example: in hoarding cases, protective services should attempt to prevent the risk of injury/death by blocked egresses and/or fire hazards before a fire starts. In another example, protective services will assist an older adult to get a Protection from Abuse (PFA) order before an alleged perpetrator follows through with threats to harm the older adult. In many cases, protective services put care and services in a home when a cognitively and/or physically impaired older adult is being left alone without adequate supervision or care/services before they experience any negative outcome as a result of the caregiver neglect.

In accordance with OAPSA, [§§10225.303\(d\)](#) - [10225.304\(b\)](#) protective services shall always attempt to obtain consent for services and utilizes the least restrictive intervention, while encouraging self-determination and continuity of care throughout the provision of services, when possible.

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D. REDUCTION OR ELIMINATION:

The goal of any protective service investigation and subsequent protective service plan is to prevent, reduce or eliminate abuse, neglect, exploitation, or abandonment (ANEA) (see [§15.91\(a\)](#)). Defined under [§15.2](#), protective services are “activities, resources and supports provided to older adults under [OAPSA] to detect, prevent, and reduce or eliminate abuse, neglect, exploitation or abandonment.”

There are times when not all risks can be mitigated. This can occur in a situation in which an older adult is found to need protective services however refuses all or a portion of the recommended services proposed in the service plan. Older adults have the right to refuse any or all protective services only if they have cognitive ability to understand the risks associated with their refusal.

If an older adult refuses services contained in the service plan, the PS caseworker must document that the older adult made an informed decision to refuse the plan, the attempts made to encourage the older adult to accept services and, when possible, the older adult's signed refusal. In accordance with [§15.81\(5\)](#), the PS caseworker must also document efforts to obtain the signed statement refusing protective services or document unsuccessful efforts to obtain a signed statement. Details about service planning and provision of services can be found under [§§15.91-15.96](#) in the PS regulations.

E. PURCHASING SERVICES:

After exhausting available steps to provide necessary services through existing agency resources, utilization of other providers and the coordination public and private entitlements and resources, the AAA may purchase those services on a time-limited basis.

An AAA may purchase services to address, mitigate, or eliminate the identified risk(s) associated with the abuse, neglect, exploitation, and/or abandonment experienced by the older adult. The overall budget available for protective services at each AAA, including each older adult's service plan, is directly determined by the AAA or at the county level. PDA funds the AAAs through a block grant allowing for maximum funding flexibility and discretion at the local level.

[Section 15.113](#) establishes the time limitation on service purchases as thirty (30) calendar days.

Exploration of payment for services must not delay risk mitigation.

According to [§15.113\(b\) and \(c\)](#), the purchase of services under this section is limited to thirty (30) days, which may only be renewed with adequate justification. The thirty (30) day period is to be considered a maximum for the purchase of services and not a standard time allotment. If, at the end of thirty (30) days of continuous service purchase, the services are still necessary, and only available through purchase, complete justification

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of the need of services documentation of the unavailability of services should be included in the case record.

PDA directs that if protective services are needed beyond thirty (30) calendar days, the AAA must notify its assigned PDA PS Specialist in writing ten (10) days prior to the expiration of services. This notification must include the following information:

- Initials of the Older adult
- The older adult's SAMS ID #
- Which services are needed beyond 30 calendar days
- Why services are needed beyond 30 calendar days

III. PROGRAM ELIGIBILITY REQUIREMENTS

A. REQUIREMENTS FOR RECEIVING REPORTS OF NEED

1. Intake Process

The standardized form developed by PDA that is used to record an allegation is called a Report of Need (RON) form (see [§15.25](#) for content requirements.) The RON is located within PDA's current database. Completion of the RON shall be in accordance with the RON instructions found in Appendix D.2, the A&D OAPSA Documentation Procedural Manual.

Per regulation [§15.25](#) and [§10225.302\(b\)](#) of OAPSA, a report received orally shall be committed immediately to writing on the standardized RON form required by PDA. Reports received by the AAA in other ways (e.g. in person, email, mail) must also be committed immediately to writing on the standardized, required RON form. PDA is aware that the immediate input of a RON is not always possible in emergency situations when immediate initiation and risk reduction is in progress. In these circumstances, addressing risk to an older adult supersedes the input of a RON in SAMS. However, in these specific circumstances, it is required that the RON be committed to the electronic assessment form within 24 hours of the receipt of the RON.

If PDA's electronic database is not accessible, the PS Caseworker is to use Mobile Assessments. If Mobile Assessment is not available, the PS Caseworker is to call their PS Supervisor. The PS Supervisor is to immediately email their assigned PDA PS Specialist describing why they are unable to enter the RON into the electronic database.

Technology interruptions should not negatively impact the ability of an individual to make a RON or delay an older adult from receiving services. Agencies must accept an oral RON if access to SAMS is not available. All the same requirements regarding referrals and activities remain in place until the technological issues are resolved and documentation can be entered as required. Exceptions only apply to power outages and when the SAMS application is not accessible due to maintenance or other issues outside of the control of the intake worker. When the technological issue is resolved, the

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necessary information must be entered in SAMS including the reason for the late entry. All intake workers, including on-call workers, must have the ability to access SAMS, whether through their computer or using Mobile Assessment.

The RON is to be completed only by individuals who have received the required training for receiving, recording, screening and referring reports set forth under [§15.124](#). The training will provide the intake worker to be familiar with the definition of an older adult in need of protective services and to be able to determine if a RON should be completed even when the voluntary or mandatory reporter does not specifically state that they would like to make a RON. The trained intake worker should not rely on the voluntary or mandatory reporter to be familiar with PS terms such as protective services, risk, RON, imminent risk, etc. and should leverage their training to ask additional open-ended questions including who, what, when, where, how and why?

For example: An individual calls the AAA regarding concerns she has about her neighbor. She tells the intake worker that her neighbor “could really use help”. Initially, the woman indicates that the older adult is “old” and thin because he/she “doesn’t eat much”. The intake worker should ask the reporter just a few more open-ended questions, as described in [training](#), to determine if the older adult may be in need of an assessment, home and community-based services or if he/she is in need of protective services. With just a few more open-ended questions, the intake worker learns that the older adult is not eating much because her niece is “taking all of the money” and she “doesn’t even pick up the older adult’s medications or ensure they are taken”. At no time did the reporter state that she wanted to make a RON or that the older adult may be the victim of financial exploitation, however, the intake worker recognized the risk(s) posed to the older adult and created a RON.

When an intake worker creates a RON for an individual under 60 years of age, the intake worker is to also ask questions to clarify that no other individuals of any age are at risk. The intake worker should be familiar with all available services through the AAA and be able to decipher between someone simply requesting services versus someone reporting abuse, neglect, exploitation, or abandonment. If other individuals are at risk or are alleged to be at risk, regardless of their ages, a RON shall be created and referred to an appropriate investigative entity. More information on training requirements can be found under Section VIII of this policy and procedure document.

There may be an instance in which a AAA receives a RON in which the reporter states that the allegations involve “all residents” or “multiple residents” at a facility. The intake worker shall attempt to obtain specific information regarding the allegations. The AAA shall attempt to gather as much information as possible including the name of the alleged victim(s), alleged perpetrator(s) and staff involved, the alleged victim’s location, the date and nature of the incident and all other information, as required in [§15.25\(c\)](#), from the reporter in order to determine the appropriate action required. If multiple names are obtained, separate RONs should be created for each older adult alleged to be the victim of abuse, neglect, exploitation, and/or abandonment. If the voluntary or mandatory reporter is unable to provide names, one RON will be created at the time of the call.

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A facility's licensing entity and protective services programs collaborate to ensure the health and safety of all residents. The role of licensing is to determine if the facility is in compliance with state and/or federal regulations. The role of the PS Caseworker is to investigate any allegation of abuse, neglect, exploitation, and/or abandonment. The goal of an investigation is to determine if the older adult is (currently) or was (at the time of the incident) in need of protective services. If the older adult is currently at risk, a protective service plan must be developed collaboratively with the older adult. If the older adult consents to the services, the service plan shall be offered and implemented. If the reporter indicates that the allegations are generally about quality of care, such as but not limited to, resident to staff ratios, oversight of the facility, poor nursing and/or medical care, however, is unable or unwilling to provide specific information regarding specific risk to an identified older adult, as required for the AAA to initiate an investigation, the AAA shall make a formal complaint to the licensing entity and ombudsman.

The AAA shall offer collaboration and be available to receive a RON(s) for specific alleged victims when/if any are identified by the licensing entity and/or ombudsman. A RON must be completed in the following scenario:

The AAA will create a Consumer Record and RON using the facility name as the older adult's name (First Name: [facility name], Last Name: All Residents), unless a Consumer Record already exists for the facility. The caseworker will investigate the allegation(s) to determine if they are Substantiated or Unsubstantiated for one or more residents. Refer to the Report of Need Instructions in Appendix D for complete instructions.

If the RON is determined to be Unsubstantiated, then the case record will be completed in accordance with the SAMS Manual and closed within 3 business days, and no further action will be necessary. If one or more residents are identified as being an older adult in need of protective services, the PS caseworker will substantiate and close the "facility" RON. The PS caseworker will then create a Consumer Record (or use an existing Consumer Record), RON, Investigation Summary and Assessment (ISA), Care Plan, etc. for each older adult determined to be in need of protective services from the investigation.

2. Capability

As stated under [§15.12](#) and [§15.23\(a\)](#), the AAAs shall be capable of receiving RONs twenty-four (24) hours a day, seven (7) days a week, including holidays, regardless of the age of the alleged victim. Under [§15.26](#), Protective Services is required to assist individuals 60 years of age and older, but also assuring that appropriate referrals are provided for other vulnerable populations. Protective services will ensure the receipt and documentation of any report received and recorded, as set forth under [§15.42\(a\)\(4\)](#). It is not legally permissible for the AAA to inform reporters that the AAA does not accept reports involving alleged victims under the age of 60 and/or request that the reporter contact another agency to report abuse. OAPSA requires that a RON shall be taken for

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an individual of any age, documented, and immediately referred to the appropriate investigative entity. If the alleged perpetrator is under 18 years of age, the investigative entity must be informed that the alleged perpetrator is a minor and any contact with the minor will require parental consent.

If any person calls a AAA because they believe an older adult is in need of protective services, the AAA must take a RON. There are no provisions in OAPSA or related regulations or PDA policy that permits any AAA to refuse to receive a RON. The AAA shall receive all reports made and make a referral to the appropriate service area where necessary. OAPSA provides the AAA, older adults, voluntary and mandatory reporters, and those who cooperate with investigations, with protections, confidentiality, and immunity in reporting suspected abuse that are not afforded under OAPSA to other aging care programs. For example, cases “handled under” Care Management do not have the liability protections nor service options, including court interventions, provided under OAPSA.

B. CRITERIA FOR PROTECTIVE SERVICES

Under [§15.44\(a\)](#), when an investigation confirms the details of a report made under [§15.23](#) or determines that the subject of the report is an older adult in need of protective services, the report shall be classified as substantiated. Under [§15.43](#), when it is determined that there is no need for protective services, the report shall be classified as unsubstantiated.

The PS caseworker and PS Supervisor are responsible for determining if the allegations in a RON are accurate or if there is any other reason why the individual fits the criteria of an older adult in need of protective services. As defined in [§15.2](#), an older adult in need of protective services is an incapacitated older adult who is unable to perform or obtain services that are necessary to maintain physical or mental health, for which there is no responsible caretaker and who is at imminent risk of danger to their person or property. Older adults that meet these criteria are eligible for protective services.

It is important to note that confirming the allegation(s) does not by itself require the case to be classified as substantiated. Confirming the allegations will warrant substantiation only if the older adult meets the definition of an older adult in need of protective services.

[Section 15.26](#) requires that all allegations of abuse must be taken as a RON and categorized. If there is any question as to what the caller/reporter is asking for and the concern involves abuse, the RON must be documented and categorized.

For example: A daughter may call the AAA to express that her mother, an older adult, “needs help” in her home. Upon further probing, the intake worker is able to determine that the daughter is calling the AAA because her mother’s home health care aide is no longer showing up daily to provide her mother with care. Upon first glance, a new intake worker may have thought that the older adult needed an assessment and did not have care/services in place.

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The criteria for protective services are:

1. A person within the jurisdiction of the commonwealth

- a. The person does not need to be a resident of Pennsylvania, only that they are within the jurisdiction of Pennsylvania.
- b. Reports received for an individual not within the jurisdiction of Pennsylvania shall be routed to the appropriate entity where the individual is located at the time of the report.
- c. Reports must be taken by the AAA when receiving a call or written allegations of abuse, neglect, exploitation or abandonment. (see section IV. Program Requirements and A. Requirements for Receiving Reports of Abuse under section III of this policy and procedure document for more information.)

2. 60 years of age or older

- a. AAAs must document all reports of abuse, neglect, exploitation or abandonment that they receive, regardless of age.
- b. When a RON is received for an individual between the ages of 18-59, it must be documented and immediately referred to the appropriate investigative agency identified by the Pennsylvania Department of Human Services (DHS), as authorized by the [Adult Protective Services Law, Act 70 of 2010](#). See Appendix C.3. and C.4. for specific referral information and contacts. For an individual under the age of 18, a RON is created by the AAA, the information is documented on the RON form (only contents outlined in [§15.25\(c\)](#)) and then immediately reported to Childline at 1-800-932-0313. In addition, the AAA must send the RON to a Childline representative. See Appendix C.3 for specific referral information and contacts.

3. Incapacitated Older Adult

- a. As defined under [§15.2](#), an incapacitated older adult is an older adult who, because of one or more functional limitations, needs the assistance of another person to perform or obtain services necessary to maintain physical or mental health.
- b. This definition is different from the definition of incapacity defined in 20 Pa. C.S. [§§ 5501- 5555](#), regarding guardianship.
- c. Functional limitations can include but shall not be limited to the following: physical, cognitive, or psychological ability to independently perform or obtain the necessary services. These could include, but not be limited to, cognitive or executive functioning deficits, physical impairment, mental or behavioral health conditions, fear and/or intimidation, undue influence or any

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other limitation that impacts the individual's ability to independently secure services on their own.

- d. If the older adult cannot identify, access, and follow through to perform or obtain services necessary to maintain physical or mental health without the physical, emotional or cognitive support of another person, they are considered to be incapacitated under the definition of an incapacitated older adult in [§15.2](#).
- e. An incapacitated determination is made by evaluating any assessment findings related to physical needs, emotional needs, mental health, fear or intimidation that prohibits the older adult's ability to access services to maintain their physical or mental health.
- f. Under [§15.91\(b\)](#), an older adult may request protective services for themselves. However, an older adult calling a AAA requesting protective services for himself/herself should not be considered capacitated on the sole basis of their ability to make a phone call to request help. The specific details in the report must be considered when determining if an older adult is able to obtain services on their own.

4. Absence/Void of a responsible caretaker

- a. Section [§15.2](#) defines a responsible caretaker as: a caretaker who is able and willing to provide the basic care and protection necessary to maintain the physical or mental health of an older adult. A caretaker reported to have abused, neglected, exploited or abandoned an older adult is presumed, subject to an investigation under this chapter, to be unable or unwilling to provide the necessary care and protection.
- b. A caretaker under [§15.2](#) is defined as: an individual or institution that has assumed the responsibility for the provision of care needed to maintain the physical or mental health of an older adult. This responsibility may arise voluntarily, by contract, by receipt of payment for care, as a result of family relationship or by order of a court of competent jurisdiction. It is not the intent of OAPSA to impose responsibility on an individual if the responsibility would not otherwise exist in law.
- c. A facility providing care for an older adult is not automatically considered a responsible caretaker under [§15.2](#) as provided above. Under [§15.2](#), when a protective services investigation finds a facility caretaker has abused, neglected, exploited or abandoned an older adult, the facility is presumed to be unable or unwilling to provide the necessary care and protection to the older adult and is therefore not a responsible caretaker.

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A facility is not a responsible caretaker when:

- The facility terminated an employee for alleged abuse of a resident; however, the terminated employee is later determined not to be the abuser.
 - Only one employee was terminated, however it was later discovered that there were multiple staff involved in the verbal abuse of an older adult.
 - An employee was suspended because a resident did not receive the care, he/she required resulting in neglect; however the facility's administrative and supervisory staff were aware of the inadequate staffing levels and did not attempt to obtain adequate staffing in accordance with the facility's policy.
 - An employee was terminated after a resident fell and fractured his/her hip; however, the newly employed staff person had not been fully trained on how to transfer residents nor did the facility take steps to train the remaining staff.
- d. An individual's power of attorney or guardian may not be considered a responsible caretaker based solely on the purported fiduciary relationship.
- e. An older adult can be considered their own responsible caretaker only when the RON does not contain any details indicating that the older adult is incapacitated (see the definition of incapacitated older adult above) and has taken steps independently to reduce or eliminate risk. This should be determined on a case-by-case basis. As much information as possible should be gathered on the older adult's functional limitations and their ability to perform or to independently obtain services necessary to maintain their own physical or mental health. Evaluation of other criteria is imperative when determining whether someone is their own responsible caretaker.
- f. If an older adult is hospitalized or is to be relocated at the time of the RON, the change in locus (location) of care alone may not be considered when categorizing the RON. The contents of the report are to be examined and a category assigned based only on the reported allegations.
- g. As provided under [§15.26\(5\)\(iii\)](#), a report may not be placed in this category if the older adult is temporarily relocated to a safe environment and will return to the original abusive situation or to a new location which has not been determined to be safe. Those at the temporary relocation should not be considered a responsible caretaker for the purpose of evaluating for a responsible caretaker.
- h. Under [§15.91\(b\)](#), an older adult may request protective services. However, even an older adult calling a AAA requesting protective services for himself/herself may not be considered their own responsible caretaker. The

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specific details in the report must be considered when determining if an older adult is their own responsible caretaker.

- i. A responsible caretaker (see definition under [§15.2](#)) who is alleged to have abused, neglected, exploited, or abandoned an older adult is presumed, subject to an investigation, to be unable or unwilling to provide the necessary care and protection. Therefore, the older adult does not have a responsible caretaker when a RON of this nature is initially received. However, when a facility is involved, if it is later determined through a protective services investigation, that the facility has taken steps to properly train its staff to provide the care needed to maintain the physical or mental health of the older adult, and an employee acted independently, carelessly, recklessly or maliciously in abusing, neglecting, exploiting or abandoning an older adult, the facility may be considered a responsible caretaker and the perpetrator may be identified as one of the facility's employee's and not the facility itself.

5. At imminent risk of danger to person or property

- a. The statute and regulations do not offer a specific definition for "imminent risk of danger", therefore in accordance with the general rule of statutory construction, the Merriam-Webster Dictionary definitions are to be used.
 - i. Imminent means "happening soon" or "ready to take place"
 - ii. Risk means "possibility of loss or injury"
 - iii. Danger means "exposure or liability to injury, pain, harm or loss"
 - iv. Imminent risk means an immediate or impending threat of substantial harm to the older adult.
- b. For protective services cases, imminent risk of danger to person or property is case specific and dependent upon the allegations or facts identified in each investigation.
- c. Imminent risk can also be as a result of financial exploitation.
- d. Each investigation must evaluate the identified risk(s) posed to the older adult and determine if the older adult is at imminent risk of danger to person or property based on the above definition.

C. VOLUNTARY AND MANDATORY REPORTING

There are two types of reporting under OAPSA: Voluntary and Mandatory reporting. Voluntary and mandatory reporters have legal protection against retaliation, discrimination and civil or criminal prosecution as provided under [§15.22](#).

1. Voluntary Reporting

Under the voluntary reporting provisions, any person who has reasonable cause to believe that an older adult is in need of protective services may report that need to the local AAA directly or call the statewide elder abuse hotline number at: 1-800-490-8505, 24-hours a day, 7 days a week. Voluntary reporters may choose to remain anonymous.

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2. Mandatory Reporting

Any mandated reporter with reasonable cause to suspect the abuse of any individual that is receiving care in or from a facility (as defined in OAPSA) must immediately report that abuse to the local AAA (see Appendix E.1. for listing of mandated reporters in PA.) Mandated reporters are not permitted to file reports anonymously and must provide identifying information to intake staff.

If the suspected abuse involves sexual abuse, serious physical injury, serious bodily injury, or suspicious death, the mandatory reporter is also required to make an immediate report to law enforcement and PDA, in addition to the AAA.

For specific notification information and requirements of mandatory reporters and AAA staff, please see Appendix C.1 and E.3. or go to <https://www.pda-lms.org/courses/ps-mandatory-abuse-reporting-training-course/>.

I. IV. PROGRAM REQUIREMENTS

A. CATEGORIZATION

Once the RON is created, it must be categorized into one of 5 categories in accordance with the regulations of [§15.26](#): Emergency, Priority, Nonpriority, Another planning and service area, or No need for protective services.

Completion of the RON shall be committed immediately to writing on the standardized form in accordance with [§15.25](#). The RON instructions can be found under Appendix A of the OAPSA Documentation Procedural Manual.

1. Considerations

Specific time frames for the initiation of the investigation, initial face-to-face contact with the older adult, and the conclusion of the investigation are provided under [§15.26](#) and [§§15.41-15.42](#).

All RONs are categorized based on the information obtained strictly from the reporter in accordance with the regulations. Careful consideration should be given to analyze the level of risk posed to the older adult at the time of the RON and at the time of the incident. Consideration should be given to the older adult's current condition and the need to gather evidence, including, but not limited to, photographs. If the reporter does not provide enough information for the intake worker to categorize the RON, additional questions must be asked of the reporter in order to obtain this information.

While conducting the RON, a reporter is asked specific and open-ended questions to ascertain, assess, and document the presence or absence of risk. The older adult's environment, situation, and any other pertinent information must be obtained during the

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initial call or interaction with the reporter to help determine the appropriate category and the immediacy of intervention needed. Prior history and knowledge about the older adult must not be utilized in taking or categorizing a RON. The AAA may not utilize another AAA program, staff within the AAA, or any other method to rule out the need for protective services. Categorization must not be influenced by time of day, day of week, type of contact needed for initiation of the investigation (face to face visit vs. phone call), and caseworker caseload. In addition, the timing of the report, should not negate the need for an investigation to be completed by protective services.

If the PS caseworker believes that the older adult needs to be evaluated sooner than the initial categorization indicates, the caseworker/supervisor should initiate the investigation sooner and document the reason within the case record.

2. Categories

1. **Emergency §15.26(b)(1) and §15.42(a)(1)(i) and (ii)**
 - a. A report placed in this category requires immediate attention because specific details in the report indicate the possibility that the older adult reported to need protective services is at imminent risk of death or serious physical harm. The person receiving an emergency report shall immediately contact a PS Caseworker designated under [§15.23\(b\)](#) and provide that caseworker with the information contained in the report.
 - b. The investigation of a report categorized as emergency shall be initiated immediately following the referral of the report. The protective services caseworker shall make every attempt to ensure the immediate safety of the older adult and to conduct a face-to-face visit as soon as possible. The AAA shall assure that reasonable attempts will be made to conduct a face-to-face visit within 24 hours after the report is received.
 - c. OAPSA and PDA policy requires a RON to be categorized as emergency when allegations of imminent risk of death, serious physical harm or sexual abuse, as defined in OAPSA, are contained in the RON.
 - d. If a RON is taken that indicates that an emergent situation or serious physical harm occurred in the past, consideration should be given to the older adult's current condition, including, the need of the PS caseworker to collect evidence that will not be available at a later date, and the current risk still posed to the older adult before categorizing the RON. If there is even the possibility that the older adult is at imminent risk of death or serious physical harm, then the RON must be categorized as an Emergency.
 - e. Any attempt to conduct a face-to-face contact with the older adult must be documented within SAMS under [§15.61](#) or [§15.71](#).

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- f. Serious physical harm did not yet have to occur to categorize a RON as an Emergency. The serious physical harm required for an Emergency categorization may be anticipated or expected, without immediate intervention or attention, to the older adult.

2. **Priority [§15.26\(b\)\(2\)](#) and [§15.42\(a\)\(2\)](#)**

- a. The report in this category contains details which clearly suggests the need for protective services is serious enough to require early intervention.

A RON classified as “Priority” is not an emergency and does not require immediate action, however, does require early intervention within 24 hours. A “Priority” RON takes precedence over a “Nonpriority” or “No need” RON. Proper categorization is fully addressed in Basic training.

- b. The person receiving a Priority report shall immediately contact a protective services caseworker and provide the information contained in the report.
- c. The investigation of a Priority report must be initiated as soon as possible. Reasonable attempts to initiate the investigation must be made within 24 hours after the report is received. The investigation is only initiated by contact with the older adult reported to be in need of protective services. The protective services caseworker shall make every attempt to visit the older adult face-to-face within the 24 hours provided. Any attempt to conduct a face-to-face contact with the older adult must be documented within SAMS under [§15.61](#) or [§15.71](#).

3. **Non-Priority [§15.26\(b\)\(3\)](#) and [§15.42\(a\)\(3\)](#)**

- a. A report in this category does not appropriately fall within the Emergency or Priority categories and does not require immediate attention by the AAA.
- b. A report in this category shall be referred to a protective services caseworker within the normal business hours of the AAA’s current or next day of business.
- c. The investigation of a report categorized as Non-Priority shall be initiated in a timely manner but never later than 72 hours after the report was received.
- d. Per [§15.42\(a\)\(3\)\(i\)](#), at the discretion of the AAA, the initiation of an investigation of a nonpriority report shall include a visit to the older adult reported to need protective services when details in the report indicate a need to see and talk with the older adult face to face to secure or verify facts essential to the ongoing investigation.

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- e. The investigation of a report categorized as nonpriority shall include at least one visit to the older adult reported to need protective services at an appropriate point in the course of the investigation. Every attempt shall be made to visit with the older adult face to face. When, after reasonable efforts to gain access to the older adult, the protective services caseworker is denied access, the caseworker shall document the efforts made and, when appropriate, take action under [§15.61](#) or [§15.71](#).
4. **No Need for protective services** [§15.26\(b\)\(5\)](#) and [§15.42\(a\)\(4\)](#)
- a. Per §15.42(a)(4), the investigation of a report categorized as no need for protective services shall consist of the protective services caseworker's review of the report categorization. If the caseworker agrees with the initial categorization, appropriate referrals shall be made within 72 hours after the report was received, to the AAA service management system. If the report is concerning an adult under 60 years of age to the AAA must immediately refer the report to Department of Human Services' Adult Protective Services provider. If the caseworker does not agree with the initial categorization, the report shall be placed in another category in this subsection and addressed under the applicable provisions for investigating a report in that category.
 - b. A report shall be placed in the No Need category when the person reported to be in need of protective services meets one of more of the following criteria:
 - (A) Is under 60 years of age.
 - (B) Has the capacity to perform or obtain, without help, service necessary to maintain physical or mental health.
 - (C) Has a responsible caretaker at the time of the report.
 - (D) Is not at imminent risk of danger to his person or property.
 - c. A report in this category shall be referred to a protective services caseworker of the AAA within the normal business hours of the AAA's current or next day of business.
 - d. The protective services caseworker shall review the details of the report and take all steps necessary to confirm or reject the categorization of No Need for protective services. The following steps must be taken to confirm or reject the categorization of a No Need for protective services:
 - i. Consultation with the intake worker to clarify what is documented on the RON.
 - ii. PDA policy states that an AAA may not make additional calls to categorize a report as a "No Need" to prevent a protective services investigation. Any additional calls made to a reporter should be to obtain or clarify demographic information only, and not to determine

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the categorization, determine the level of risk posed to the older adult or initiate an investigation. Under §15.41, AAAs are responsible for assuring that all RONS, that are not initially classified as a “No Need”, are appropriately investigated to ensure that no older adults are left at risk. A PS caseworker may not receive a RON, make additional calls or home visits, and then classify the RON as “No Need” for protective services. It is the AAA’s responsibility under [§15.121-15.127](#) that intake staff have completed all training in order to determine the appropriate categorization of a RON at the time of intake.

- iii. Reviewing the contents of the RON with a protective services supervisor or another protective service caseworker to confirm the categorization of No Need for protective services. If after reviewing the contents of the RON, there is any uncertainty about the older adult’s need for protective services or if any important information necessary to properly categorize is unknown, the RON shall not be categorized as No Need for protective services and placed in another category under [§15.42](#) and handled accordingly.
- iv. A report may not be placed in this category if the older adult is temporarily relocated to a safe environment and will return to the original abusive situation or to a new location which has not been determined to be safe.
- v. If the report is concerning someone under the age of 60 years of age, a referral should be made to the appropriate APS investigative entity (see Appendix C.3).
- vi. If the PS caseworker and/or PS Supervisor rejects the categorization, the report shall be placed in the appropriate category under [§15.42](#) and be handled accordingly.

1. AAA Care Management System for No Need RONS - 15.26(5)(ii). When the categorization of No Need for protective services is confirmed, appropriate referrals shall be made within 72 hours. Referral for other AAA services should be made utilizing normal procedures. When the caseworker confirms the screening categorization of No Need, [15.26\(5\)\(ii\)](#) requires that appropriate referrals shall be made to the AAA care management system for RONS classified as No Need for protective services or, if concerning an adult under 60 years of age, to another community agency. In other words, after reviewing and confirming a RON classified as “No Need for protective services”, the protective services caseworker is required to evaluate the need for other services and make any appropriate referrals. Should the older adult require other AAA services, the referral is to be made utilizing normal intake procedures and the case should be processed as any other care management referral.

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- a. It should be noted that the RON form itself cannot be transferred to the care management unit due to confidentiality provisions. The PS caseworker is able to provide enough information to the referring AAA to support the provision of care without breaching confidentiality. The limited disclosure provisions relating to delivery of services may be applied to this circumstance.
- b. All alleged perpetrator and reporter information must be immediately redacted from the RON as per [§15.102\(d\)](#).
- c. Reports of Need received regarding an older adult that is deceased shall be placed in this category.
- d. A RON in this category shall be handled as an unsubstantiated report and maintained as required by [15.43\(a\)\(b\)](#) and [§15.102](#). See Section VI., G. "Maintenance of Records" of this document.

iv. **Another Planning and Service Area - [§15.26\(b\)\(4\)](#)**

A AAA shall receive all reports made regardless of their place of origin or the location in this Commonwealth of the older adult in need of protective services. If the older adult who is the subject of a report does not reside in the planning and service area of the AAA or, at the time, is not in the planning and service area, the AAA receiving the RON shall notify the AAA which provides protective services in the planning and service area where the older adult is located at the time of the report and relay to that AAA the information received in the report. See §15.23(d).

A RON received for another planning and services area shall be documented in its entirety and transferred to the appropriate investigative entity. Under no circumstances should the reporter be instructed to contact another AAA or entity to make the report.

- i. If a RON is received for an individual that is located outside of the jurisdiction of this Commonwealth, the information in the RON will be immediately provided to the protective services agency in the appropriate jurisdiction following requirements set forth under [§15.157](#). This process includes calling that state's protective services phone number and providing all information contained in the RON, with exception to the reporter's name. A comprehensive list of each state's protective services number can be found on the internet at <https://www.napsa-now.org/get-help/help-in-your-area>.
 - a. A report in this category shall be immediately referred to the AAA which has the designated responsibility for protective

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services in the planning and service area in which the older adult reported to need protective services is located at the time of the report.

- b. A report in this category will also meet the criteria for placement in one of the other referral categories of [§15.26](#).

For clarification for a and b above and in accordance with [§15.23\(d\)](#) and [§15.26\(b\)\(4\)](#), if a RON is received for an older adult residing in a different planning service area, regardless of the county in which the older adult permanently resides, the RON must be referred for categorization to the AAA where the older adult is located at the time of the report. The AAA to which the RON is referred shall take lead responsibility for the case however interAAA cooperation will be required for such cases. Both agencies will have specific responsibilities and it will be the agencies' discretion as to which county is most appropriate to perform which activities. The report shall be referred to another planning and service area *immediately* for proper categorization and initiation as well as to assure immediate required notifications are completed. For clarification purposes, another planning and service area confirmation shall be changed to the appropriate categorization once the receiving AAA receives the referred RON and reviews the content.

B. NOTIFICATIONS

The AAA where the older adult is located at the time of the RON is responsible to complete the required notifications.

1. Facility Notifications- [§15.45](#):

Facility notification requirements can be found under Appendix C.1 (AAA notification requirements) and C.5 (event reporting system for DOH).

2. Under 60 Process

Under 60 process and notification requirements can be found under Appendix C.3.(AAA notification requirements for under 60 reports) and C.4 (APS report of need referral and payment process)

3. Mandated Reports ([§§15.151-15.152](#))

Notification requirements for mandated reports can be found under Appendix C.1 (AAA notification requirements), C.5 (event reporting system for DOH notifications), and E.3 (mandated reporter requirements and restrictions on employees)

4. State-operated Mental Health and ID Facilities- [§15.45\(c\)](#)

Required notifications regarding an older adult residing in a state-operated mental health hospital or a state center for individuals with intellectual disabilities can be found in Appendix C.2.

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Clarification on non-state center facility notifications can also be found under Appendix C.2 as well as #5 below.

5. Mental Health/Intellectual Disability for Mandated Reports- §15.155(a)(5)(7)

If the AAA has knowledge or believes that the alleged victim has an intellectual disability or mental health condition, the AAA shall notify the Department of Human Services office (OMHSAS or ODP) with facility licensing responsibilities and the county MH/ID office in addition to making other reports required by [§15.155](#). See specific details for notification in Appendix C.2.

6. Domiciliary Care Oversight Entity- §15.155(a)(5)(6)

If the alleged victim resides in a domiciliary care home, the AAA shall notify and forward reports to PDA

7. Adult Daily Living Center Oversight Entity - §15.155(a)(5)(6)

If the alleged victim receives services from an adult daily living center, the AAA shall notify and forward reports to PDA.

8. Correctional Facilities:

When a RON is received regarding an inmate, the intake worker should advise the reporter that a referral will be made to the Department of Corrections and also provide information regarding the Pennsylvania Prison Society where the reporter can also make his or her own report.

- (i). PA Prison Society
230 S. Broad Street, Suite 605,
Philadelphia, PA 19102
(215) 564-4775

The regulations do not prohibit PS from investigating a RON within the prison, however, the current practice is that RONs involving an incarcerated older adult are referred to the Department of Corrections for investigation.

On a case-by-case basis, each RON should be reviewed, and a determination made as to who is best able to investigate the allegations and help the older adult. If a AAA has an ongoing relationship with a local jail or prison and is able and willing to conduct an investigation, that action is not prohibited by OAPSA or regulations.

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If the AAA is *not* going to investigate the allegations in the RON, an immediate referral must be made to the following:

Department of Corrections
1920 Technology Parkway
Mechanicsburg, PA 17055
Phone: (717) 728-2033
24/7 Voicemail Messaging Center: 800-677-0330

- Submission of a grievance in accordance with the [Department of Corrections Policy DC-ADM 804, "Inmate Grievance System"](#) Report (verbal or written) to the Department's Bureau of Investigations and Intelligence.
- The Department of Corrections may be contacted by either phone or message Center with the information the AAA received through the RON. The Department of Corrections will make sure the allegations are investigated.
- Regulations allow information within a RON to be provided to the Department of Corrections. As provided under §15.157 (1), the Department of Corrections shall have limited access to information contained in a RON.

An intake worker should also provide the reporter with information regarding advocacy organizations such as the PA Prison Society (230 S. Broad Street, Suite 605, Philadelphia PA 19102; (215) 564-4775.)

Regulations do not allow PS Caseworkers to provide information within the RON to the Prison Society; however, the intake worker should provide the Prison Society's information to the reporter. The reporter is free to contact the Prison Society and provide information regarding the alleged abuse.

All of Pennsylvania's *federal* prisons are controlled by the Federal Bureau of Prisons (BOP). Any report of abuse, neglect, or mistreatment regarding an older adult inmate in a federal prison may be directly reported to the facility or to the North East Regional Office of the BOP.

FEDERAL BUREAU OF PRISONS
NORTH EAST REGIONAL OFFICE
U.S. CUSTOM HOUSE, 7TH FLOOR
PHILADELPHIA, PA 19106
(215) 521-7301 - PHONE
(215) 597-1893 – FAX
NERO-EXECASSISTANT@BOP.GOV

9. Older Adult is deceased at time of RON - [§15.46\(g\)](#)

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To meet the definition of an older adult in need of protective services, an older adult must be within the jurisdiction of Pennsylvania. If the older adult has already passed away at the time of the RON, he/she is no longer considered to be within the jurisdiction of Pennsylvania, and therefore the RON is categorized as a No Need for protective services and immediately closed in accordance with the SAMS manual. The intake worker may make a referral to another department, such as the appropriate licensing entity (if appropriate). In addition, referrals to assist family members or others through legal services, notification of police, or other elements of the service delivery system may be made. If the older adult was deceased before the RON, there should not be an investigation, nor should the cost of any services be charged to protective services.

In accordance with [§15.46\(g\)](#), if the death of an older adult reported in need of protective services occurs prior to the AAA's investigation of the RON, during the investigation or at any time prior to the closure of the protective services case and when there is some nexus between the death and the need for protective services, the AAA shall immediately act to confirm the death, if necessary, and report the death to the police and the county coroner. See additional information under section F. "Death of Older Adult" and G., "Protective Services Collaboration with Licensing, Law Enforcement and Others" of Section Iv. of this policy and procedural document. See additional information below on this topic.

10. Conflict of Interest Reports - [§15.2](#), [§15.42](#)

Conflict of interest procedures must be addressed in the annual protective service plan required under [§15.13 \(d\)](#). The plan must include the steps the AAA will take to avoid or minimize any real or perceived conflicts of interest.

All PS caseworkers must read the AAA's current, approved protective services plan annually and be familiar with how the AAA's protective services structure meets their responsibility under OAPSA and related regulations. All protective services caseworkers must be trained by the AAA on their scope of duties under OAPSA and related regulations offered through staff meetings or formal internal training.

Under [§15.42 \(b\)](#), if the AAA is required to investigate a report which alleges that abuse, neglect, exploitation or abandonment has been perpetrated by an employee of the county, the AAA or its subcontractor, the AAA shall notify PDA as early as possible by phone during the current or next day of normal business hours. PDA reserves the right to intervene in the AAA's investigation when such a conflict exists.

It is required that the AAA contact their assigned Program Specialist(s) at PDA and provide telephone notification of an identified conflict during the current business day, or if after hours, early the next day of business. At the time of the notification,

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AAA staff shall advise PDA of the details contained in the RON and whether they are able to conduct an unbiased investigation.

If a AAA employee is the alleged perpetrator, PDA will investigate the case. For expediency, in lieu of waiting to receive the RON and other relevant records by mail, PDA will access the electronic case record to review the case.

When an AAA determines it cannot or should not investigate, the PS caseworker must document the reason and provide an explanation and rationale regarding why they cannot conduct the investigation to PDA. Additionally, the AAA shall make arrangements with another AAA to conduct the investigative activities and provide written details of these arrangements to PDA. The AAA will document the referral of the case to the accepting AAA in writing within the case record.

The AAA accepting the investigation is responsible for the following:

1. Completing the investigation
2. Using the email template below, the AAA is to notify the AAA's assigned PS Specialist immediately when the investigation is completed. All electronic communications containing personally identifiable information (PII), Health Insurance Portability and Accountability Act (HIPAA) information, or confidential protective services information shall be sent utilizing a secured encryption method.
3. If the alleged perpetrator is an employee that has access to SAMS, electronic assessment forms shall be secured with a password that is not known to the alleged perpetrator. The password will be shared only with PDA. PDA will be provided with updates as requested.
4. As provided in [§15.42\(b\)](#), PDA reserves the right to intervene in the AAA's investigation if it is deemed necessary to assure a fully objective investigation is completed. Should the AAA identify a conflict of interest other than that stipulated under [§15.42\(b\)](#), the AAA's director and/or solicitor shall be consulted to determine the AAA's ability to conduct the investigation. If PDA intervenes in an investigation, a journal note will be added to the electronic case record indicating PDA's involvement and next steps.

Email Template:

To: (Name of the Director of the PS Office at PDA)

From: Name

Subject: Conflict of Interest - SAMS ID#

As a result of an AAA conflict of interest, the referenced matter was referred to this office. "Insert AAA Name Here" AAA conducted the protective services investigation in accordance with the laws and state regulations. As a result of our investigation the following was determined: "Enter Details Here".

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This matter has been closed in our office and therefore is ready for review by your office at this time. Please contact me with any questions.

Name and Title
Name of AAA
Contact information

C. INITIATION AND PURPOSE OF INVESTIGATION

Once the RON is categorized and the protective services caseworker receives and reviews the RON, an investigation shall be initiated based on the standards for initiating an investigation under [§15.42](#). All personnel conducting investigatory activities are required to have the appropriate training and credentials as described in [§§15.121-15.123](#). Those personnel that complete the training must complete a written competency evaluation as described in [§15.126](#). More information on training requirements can be found in Section VIII of this policy and procedural document.

The purpose of an investigation is to determine:

- If the allegations made in a report of need can be substantiated and/or
- If the older adult referred to in the report of need is an older adult in need of protective services

During an investigation, the protective services caseworker collects evidence, makes direct observations, conducts interviews with appropriate collateral contacts, and reviews appropriate records. Based on the information gathered and analyzed, the protective services caseworker must determine if there is enough evidence to show that the older adult is or was in need of protective services either at the time of the RON or at the time of the incident. Under [15.44\(a\)](#) a case may be substantiated when the investigation confirms the details in the report of need (and the older adult meets definition of an older adult in need of PS) or when the investigator determines through a thorough investigation that the older adult in the report is an older adult in need of protective services. In some instances, a case is substantiated based on the information provided in the RON, in other instances, a case is substantiated based on other factors found during the investigation.

When the PS Caseworker determines during the course of the investigation that the older adult meets the definition of an older adult in need of protective services at the time of the incident however, not at the time of the investigation, the protective services caseworker shall classify this case as substantiated. No services would be offered or put into place because there is no current need for protective services to be put in place. If the older adult is in need of protective services, however, refuses services, the case is still substantiated.

When an older adult is identified as a victim of elder abuse and/or the allegations in the RON may be affirmed through investigation, if, upon evaluation of the case, the older adult does not meet all five of the criteria to be an older adult in need of protective

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services, the case may not be substantiated. When an investigation is determined that there is no need for protective services, the report must be classified as unsubstantiated and the case shall then be closed.

Probing for All Types of Abuse

Regardless of what type of abuse, neglect, exploitation and/or abandonment is alleged in the RON, PDA policy requires the AAA to assess for all types of abuse during every investigation. Timely contact with the older adult is important so that all types of abuse can be probed. The PS Caseworker must document in the protective services care plan journal both failed and successful attempts to access and assess to the older adult. (See Section VII of this policy and procedural document for more information on documentation standards.)

D. INVESTIGATIVE PROCESS

The investigation is defined in the regulations under [§15.2](#) as “a systematic inquiry conducted by the agency to determine if allegations made in a RON for protective services can be substantiated, or if the older adult referred to in the RON is an older adult in need of protective services, or both.” An investigation must include, at minimum, with consideration of consent (see below), interview with the older adult and appropriate collateral contacts including the alleged perpetrator, medical or financial document reviews, pictures (if appropriate) and observations. Investigative interviews should be used to gather information about the incident involving the older adult and other information about the older adult. When possible and safe for the older adult, the interviewer should obtain information from the older adult about the incident. The investigation should also include, when safe for the older adult, the alleged perpetrator’s account of the incident. Physical, sexual, emotional, verbal, and other types of abuse come in many forms. Abuse can be objective or subjective and can be based on the older adult’s feelings, emotions, thoughts, and opinions.

All investigatory activities, including but not limited to visits, interviews, phone calls, observations, consultations, supervisory reviews, summary of documents, notifications, reassessments, etc., shall be recorded in the electronic case record care plan journals. See documentation requirements under Section VII. of this policy and procedural document. The ISA form must be created immediately upon confirmation that a RON will be investigated. The ISA serves as a working document for the protective services caseworker to collect and document findings of the investigation, make a determination, conduct assessments, and record dates of crucial activities in one location. It is necessary to collect real-time data to assure compliance with regulatory requirements. There is no need to provide extensive details or summarize the steps of the investigation in the ISA as the form is mostly used to provide PDA with data. Detailed information regarding the investigative activities taken, the investigative findings and the case determination are to be documented in the electronic care plan journals. Activities that must be documented in the care plan journals include, but are not limited to:

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- Face-to-face visits with the older adult, including dates and times of any attempted visits with unsuccessful contact
- Any phone calls made related to the investigation, including documented attempts with dates and times to reach parties pertinent to the investigation and messages left
- All interviews, by phone or in person, with collaterals and/or alleged perpetrators
- Any correspondence sent or received
- The receipt and summary of any records or other data and information reviewed during the investigation

The file attachment section of the electronic case record shall be used for uploading all essential documents gathered during the investigation and service provision (refer to section VI. of this policy and procedure document). However, in cases where the alleged perpetrator is an employee and/or has access to SAMS, these documents shall be maintained outside of SAMS in a secure manner to prevent AP from having access to the information or files. No documents should be uploaded into the online file attachments.

Please refer to Appendix D.2, the A&D OAPSA Documentation Procedural Manual, for complete file attachments policy and instructions.

For the assessment portion of the ISA, please refer to [§15.92](#) and Section VI., A. “Assessment” of this policy and procedural document.

It is imperative that each PS caseworker develop an investigative plan for each investigation (see “D. Investigative Process” under Section IV of this policy and procedural document). The investigative plan guides the protective services caseworker’s activities in an organized manner. The plan helps to maintain the focus of the investigation, assures that all pertinent information is obtained and recorded most efficiently.

If PDA determines that an AAA is unable to conduct, or has not conducted, what PDA considers an acceptable protective services investigation, PDA may intervene in the AAA’s investigation, or conduct its own investigation ([§15.42\(e\)](#)). PDA may review records, request records, or provide direction with investigations when concerns about an AAA’s investigation are identified. At the discretion of PDA, if concerns are identified, a decision will be made on how the investigative activities will proceed. This may include PDA requesting certain investigative actions take place, requesting a different protective services caseworker within the AAA to conduct the investigation, referring the investigation to another AAA or PDA conducting the investigation. If PDA intervenes in an investigation, documentation will be added to the electronic case record indicating PDA’s involvement and next steps.

E. ACCESS TO OLDER ADULT AND RECORDS

1. Access by Consent- [§15.63](#), [§10225.304](#)

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Under [§15.63](#), the AAA's access to confidential records held by other agencies or individuals and the AAA's access to an older adult reported to need protective services shall require the consent of the older adult or a court-appointed guardian except as provided under [§§15.61](#), [15.62](#), or [15.71](#) (relating to access to older adults; access to records; and involuntary intervention by emergency court order). While access is assured under [§15.61](#), there are very specific guidelines as provided under [§10225.304](#) in which protective service workers must follow when completing investigations and offering services to older adults. The AAA shall offer protective services under any of the following conditions:

1. The older adult requests such services.
2. Another interested party requests such services on behalf of the older adult.
3. If, after investigation of a report, the AAA determines the older adult is in need of such services.

An individual shall receive protective services voluntarily unless such services are ordered by a court, requested by a guardian of the older adult, or provided under an involuntary intervention by emergency court order. In no event may protective services be provided under this chapter to any person who does not consent or, having consented, withdraws such consent.

2. Access to older adults - [§15.61](#)

The AAA shall have access to older adults who have been reported to need protective services to:

1. Investigate reports
2. Assess the older adult's need and develop a service plan for addressing determined needs
3. Provide for the delivery of services by the AAA or other service provider under the service plan.

If the AAA is denied access to an older adult reported to need protective services and access is necessary to complete the investigation or assessment and service plan, or the delivery of needed services to prevent further abuse, neglect, exploitation or abandonment of the older adult, the PS caseworker is to make all reasonable efforts to clearly inform the party denying access of the legal authority to access and the available resources through a court order.

If the party continues to deny the AAA access to the older adult, the AAA may petition the court for an order to require the appropriate access when one of the following conditions applies:

1. The caretaker or a third party has interfered with the completion of the investigation, the assessment and service plan or the delivery of services.
2. The AAA can demonstrate that the older adult reported to need PS is denying access because of:

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- Coercion
- Extortion
- Intimidation
- Undue influence
- Justifiable fear of future abuse, neglect or exploitation

Older adults have rights that must be upheld and honored. They have a right to know that a RON has been made and to a brief summary of the nature of the report.

Older adults have the right to refuse to participate in an investigation or to tell a AAA that they do not want or need an investigation to be completed, however, the AAA is still responsible to conduct and complete the investigation of a RON. An investigation must be completed in accordance with the statute and regulations. The investigation must provide the necessary information to determine if a RON is substantiated or unsubstantiated. The PS caseworker is not required to obtain written or any other form of permission, from the older adult, to interview friends, relatives, neighbors, and anyone else pertinent to the investigation. An investigation may not be stopped simply because the older adult requests termination of the investigation.

Even when an older adult refuses to meet with or speak to the PS caseworker, the PS caseworker is obligated to make every effort to talk with the older adult and identify and interview appropriate collateral contacts. A collateral contact is a source that has knowledge about the older adult's situation. The purpose of this part of the investigation is to determine if the older adult is being victimized, however, may not want assistance due to fear of future abuse or retaliation. It is not unusual for older adults who are being mistreated or abused to be fearful of their abuser and tell the PS caseworker that they are not being abused than to face the consequences that can be brought forth by the perpetrator.

3. Access to records - §15.62

At the beginning of the investigation, the PS caseworker should obtain or attempt to obtain a signed release of information from the older adult to access their confidential information for the purpose of investigating.

Discretion should be used when requesting records so as to maintain as much confidentiality as possible.

The AAA shall have access to records relevant to:

1. Investigations of RON received;
2. The assessment of need and the development of a service plan when an older adult's need for protective services has been or is being established;

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3. The delivery of services arranged for under the service plan developed by the AAA to respond to an older adult's assessed need for specific services.

If the AAA is denied access to records necessary to complete a proper investigation of a RON or an assessment or service plan, or the delivery of needed services to prevent further abuse, neglect, exploitation, or abandonment of the older adult reported to need protective services, the PS caseworker shall clearly inform the party denying access to the records of the legal authority for access set forth in [§10225.304](#) and the available recourse through a court order. If the party continues to deny access to relevant records, the AAA may petition the court of common pleas for an order requiring the appropriate access when one of the following conditions applies:

1. The older adult has provided written consent for confidential records to be disclosed and the keeper of the records denies access.
2. The AAA is able to demonstrate that the older adult is denying access to records because of incompetence, coercion, extortion, or justifiable fear of future abuse, neglect, exploitation, or abandonment.

A written consent (a release) for access to confidential records must be obtained from the older adult or a court appointed guardian under 15.63. Written consent for access to records is different than an older adult giving informed consent for protective services under 15.91(c), which occurs when a PS case is substantiated.

During an investigation, information is gathered and analyzed, and a determination is made as to whether the case is substantiated or unsubstantiated. If the allegation is substantiated, the PS caseworker will work with the older adult to develop a PS service plan. The purpose of the PS service plan is to reduce or eliminate risks identified during the investigation. An older adult has the right to consent to the plan, accept parts of the plan or refuse the entire plan.

When an older adult initially refuses to sign an authorization to access their records, a conversation with the older adult should take place. The purpose of the conversation is to determine why the older adult is refusing access. The older adult should be reassured that no action would be taken following the review of records unless the older adult's consent is obtained. The review is simply a fact-finding effort so that the older adult can be fully informed. If an older adult does not want their records accessed, the protective services caseworker must still complete the investigation without the records.

PS caseworkers should work with older adults to review the allegations received, and assess the situation to determine if the older adult is refusing to sign the release because of:

- Incompetence
- Coercion
- Extortion

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- Intimidation
- Undue influence
- Justifiable fear of future abuse, neglect, exploitation or abandonment

If the older adult's refusal is not of his/her free will, the PS caseworker must be able to provide documentation of the chain of events leading to the refusal such that it is clear to the court that the older adult's refusal is not of free will. The description should be clear, concise, comprehensive, and logically constructed to show examples of the older adult's behavioral responses to actions taken or threatened by the caretaker, abuser, etc. The RON information will be important to consider and further discussions with the reporter or other contacts may provide additional information to support the reasons why the older adult's refusal is not of their free will.

When obtaining access to financial records for financial exploitation investigations, the [Gramm-Leach-Bliley Act](#) (GLBA) states that a financial institution may not disclose any nonpublic personal information about an older adult to any nonaffiliated third party unless it has provided the older adult with a notice describing the disclosure and a reasonable opportunity to opt out of the disclosure. The GLBA restricts a financial institution's ability to share nonpublic personal information. The GLBA does provide an exception that permits a financial institution to disclose information to local, state or federal agencies, without the required notice and consent and without violating GLBA, when there is suspected financial exploitation, such as:

- Disclosure pursuant to a properly authorized civil, criminal or regulatory investigation or subpoena.
- Disclosure in order to comply with federal, state or local laws, rules and other applicable legal requirements.
- Disclosure to protect against or to prevent actual or potential fraud.

Federal law ([15 U.S. Code §6802](#)) allows disclosure of nonpublic information to protect against actual or potential fraud, unauthorized transactions, claims or other liability.

i. Interference with services-[15.91\(e\)](#)

The AAA can petition for a court order enjoining interference when a person interferes with any provision of protective services including:

- The investigation
- The older adult signing a service plan and consenting to services
- Interfering with the recommended services in the plan
- Any action that discourages the older adult's participation or inhibits the process of providing protective services

F. EMERGENCY INTERVENTION

Involuntary Intervention by Emergency Court Order - [§§15.71-15.76](#)

An involuntary intervention may only be sought when there is clear and convincing evidence that the older adult is at imminent risk of death or serious physical harm. When involuntary intervention is being considered, a PS caseworker should consult professionals within the AAA for consultation when making this difficult decision. PS caseworkers are encouraged to consult with, at the very least, their supervisor, director, legal counsel, physician and/or nurse consultant. PS caseworkers should also examine the potential assistance that can be provided by professionals who are directly involved with the older adult such as their personal physician, other specialists, in-home service providers, their legal counsel and clergy. In some instances, requesting a wellness check from local law enforcement could be helpful. Assistance from informal supports should be sought when trying to obtain information or seek assistance with the development and implementation of formal interventions within a service plan.

When there is clear and convincing evidence that, if protective services are not provided, the older adult to be protected is at imminent risk of death or serious physical harm, the AAA may petition the Court for an emergency order to provide the necessary services. The petition documents the imminent risk of death or serious physical harm to the older adult. There is no requirement in OAPSA or regulations that the older adult be cognitively incapacitated in order to seek involuntary intervention.

An emergency involuntary intervention order is an intrusive action that must only be utilized as an action of last resort when all other attempts for a resolution have failed. Prior to seeking a petition for an involuntary intervention, the AAA's initial goal is to seek the least restrictive alternative when providing protective services to an older adult. Least restrictive alternatives are defined in [§15.2](#) and at [10225.303](#). It is also a directive presented in the Older Americans Act as Amended through P.L. 116-131 Section 721(b)(10)(F) Enacted March 25, 2020.

The older adult's safety is the primary consideration. All steps in the process (as described below) are to be considered in every involuntary intervention case. The PS caseworker shall address and document in the case record, and under §15.76, include the following:

- i. Evaluate the older adult's ability to make an informed decision
- ii. Clearly identify the potentially dangerous outcome
- iii. Utilize all available resources
- iv. Evaluate all reasonable alternatives
- v. Discuss these alternatives with the older adult or significant other
- vi. Encourage the most appropriate alternative(s)
- vii. Obtain information to support all actions
- viii. Retain all court records and correspondence
- ix. Document all actions including failed efforts
- x. Inform the older adult of their right to seek legal counsel

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- xi. Petitioning the court order for involuntary intervention order
- xii. Remain actively involved and reassess the older adult's need for PS until its resolution

i. Evaluate the Older Adult's Ability to Make an Informed Decision

The PS caseworker should evaluate the older adult's ability to make an informed decision prior to considering an emergency petition as it is important to determine the older adult's understanding of the risk and related consequences. The criteria for determining if an older adult meets the definition of an older adult in need of PS includes the word "incapacitated" ([§15.2](#)). The definition of an incapacitated older adult is an older adult who, because of one or more functional limitations, needs the assistance of another person to perform or obtain services necessary to maintain physical or mental health. This definition set forth in [§15.2](#) refers to this lack of capacity to obtain services to maintain physical or mental health including property. It does not refer to the definition of "incapacity" as in PA's Guardianship law.

Although the consideration of the older adult's ability to make an informed decision is an essential part of the PS caseworker's evaluation, the PS caseworker should keep in mind that an Emergency Involuntary Intervention can occur, under [§10225.307](#), even in cases in which the older adult makes an informed decision to refuse services.

It is not necessary for the older adult to be unable to get out of bed without assistance and incoherent to be deemed incapacitated. An older adult may be ambulatory, alert and oriented but still lack the capacity or is incapable of obtaining services to maintain physical or mental health. This could be the result of some type of psychological or physical intimidation and may only be for a limited period of time.

ii. Clearly Identify the Potential for a Dangerous Outcome in the Involuntary Intervention Petition

Under [§15.71\(a\)](#), the AAA may petition the court for an emergency order to provide necessary services where the older adult is at an imminent risk of death or serious physical harm. To petition for involuntary intervention a PS caseworker must initially show there is clear and convincing evidence that if protective services are not offered, the older adult to be protected is at risk of death or serious physical harm. The petition must clearly and specifically document the imminent risk of death or serious physical harm to the older adult if services are not provided.

The PS caseworker must obtain supporting information to identify the potentially dangerous outcome that would result if services are not provided. PS caseworkers should also utilize other professionals when possible to help articulate the emergency, and the potentially dangerous outcome, so it can be specifically stated

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in the petition. Some agencies use a standard form, completed by a physician, as an attachment to the petition as objective supporting documentation.

It is essential, for the safety and well-being of the older adult, as well as the AAA's credibility, for PS caseworker to provide objective supporting information to support the imminent risk/condition and consequences that warrant the involuntary intervention petition.

iii. Utilize All Available Resources

The PS caseworker should utilize all available resources, including the AAA Director and AAA Solicitor, when making the determination that it is necessary to file an emergency involuntary intervention petition. When determining to petition for an involuntary intervention, the following should be considered before filing a petition for involuntary intervention:

1. Identify the potential risk(s) or danger(s) posed to the older adult
2. Document all least restrictive interventions that have not been successful in mitigating or eliminating the identified risk(s) or danger(s) to the older adult
3. Identify the specific need for the court intervention
4. Identify the actions that will mitigate or eliminate the risk or danger to the older adult

iv. Evaluate All Reasonable Alternatives

Although there is a certain immediacy in these situations, least restrictive alternatives should be evaluated, offered, and implemented to remedy the situation before petitioning the court for such an intrusive action as an Involuntary Intervention order. Time is always of the essence when considering an involuntary intervention petition.

v. Discuss these alternatives with the older adult or significant other

The PS caseworker and the older adult must discuss various interventions that may mitigate or eliminate the identified risk(s) or danger(s). The older adult's opinion and input (as well as that of significant others) must be solicited and considered. The PS caseworker must always treat older adults with dignity by asking for their input and sincerely considering the older adults' requests. The PS caseworker must allot time to discuss appropriate alternatives with all interested parties to include them in the service planning process, ascertain their perspective of the needs of the older adult and allow them to ask questions.

The PS caseworker must evaluate the feasibility of including the older adult's ideas and suggestions in the care plan or petition. The time required in this effort, however, must not be to the detriment of the older adult. The PS caseworker must determine how much time can be spent on this effort before it creates an additional

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risk for the older adult. In all cases, careful consideration is given to the older adult's individual needs and desires. An involuntary intervention petition must be considered as a last resort.

vi. Encourage the Most Appropriate Alternative(s)

After evaluating all appropriate alternative interventions and discussing them with the older adult and any significant others, a PS caseworker must determine the most appropriate approach and encourage the older adult to consent to that intervention. Priority must be given to least restrictive alternatives. Sufficient time, however, must be provided to ensure the older adult is capable of making an informed decision and that everyone understands the situation, its consequences and all recommendations. If all alternatives to involuntary intervention have been exhausted, the PS caseworker must inform the older adult that PS will be petitioning the court for involuntary intervention and explain why protective services is choosing this as a last resort. The older adult must be informed of all efforts to remedy the situation before a court order is requested.

The petition for involuntary intervention must include the complete documentation of the AAA's efforts to remedy the situation before it requested the court order.

vii. Obtain Information to Support All Actions

At all stages of this process, the PS caseworker must confirm they have obtained reasonably sufficient pertinent information to document and support all investigative efforts, and to assist in making appropriate determinations as to the direction of the case.

Any confidential information regarding an older adult is obtained with consent of the older adult, consent from the older adult's guardian or in some cases, the result of a court order. The accumulated information may be in the form of reports, signed affidavits or photographs, including, but not limited to:

- o medical history
- o present medical condition including medications and treatments
- o psychiatric/psychological evaluations
- o current medical reports
- o social history
- o medical/mental health opinion of the older adult's current condition
- o older adult's ability to make an informed decision
- o medical opinion on the identified risk(s) or danger(s)
- o photographs of the older adult's living environment
- o police reports
- o other court documents

viii. Retain All Court Records and Correspondence

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The PS case file must include a copy of all court records (e.g., petitions and orders) and relevant correspondence (e.g., medical reports and letters to the older adult's attorney) to identify and support the PS caseworker's actions. This information should be kept in chronological order, so a logical progression of investigative activities is documented.

ix. Document All Actions Including Failed Efforts

Section [§15.76](#) provides, "the agency shall document in the case record emergency intervention action it takes." The PS caseworker must document all investigative activities and determinations in the electronic case record including alternatives suggested and efforts made to reduce or eliminate risk. This would include all interviews, observations, home visits, telephone calls, record reviews, and other actions with or on behalf of the older adult. Journal notes should be concise but include all pertinent data. Documentation should be professional and in chronological order. The PS caseworker shall document every case file as if the file were to be reviewed by a judge.

x. Inform Older Adult of Their Right to Seek Legal Counsel

Section [§15.71\(b\)](#) of the regulations require that "when the agency petitions the court for emergency involuntary intervention, the agency shall make sure the older adult is advised of their right to be represented by counsel at all stages of the proceedings." It further requires that if the older adult's attorney is known, the AAA "shall attempt to notify that attorney before it files a petition for emergency involuntary intervention." If the AAA has no knowledge of an attorney who represents the older adult, the AAA shall attempt to notify their Title IIIB funded legal services provider identified by the AAA in its approved PS annual plan to provide legal assistance for the older adult. Any representation by the Title IIIB funded legal provider is covered under Title IIIB funding provided to the AAA for legal assistance for older adults with the greatest economic and social needs. The notification to an attorney for the older adult shall contain enough information about the risk(s) posed to the older adult and the proposed remedy. This notification will enable counsel to determine if representation is necessary at the emergency hearing. Notification to counsel shall include a copy of the petition with affidavits.

xi. Petitioning the court order for involuntary intervention order:

Under [§15.71\(a\)](#), when there is clear and convincing evidence that, if protective services are not provided, the older adult to be protected is at imminent risk of death or serious physical harm, the AAA may petition the court for an emergency order to provide necessary services.

When preparing the Petition for Involuntary Intervention, the AAA should be mindful of all actions and assistance that may be required to satisfy the reduction of risk to the older adult. This could include, but is not limited to the following:

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- assistance from law enforcement
- assistance from an ambulance and EMTs
- hospitalization
- emergency medical care
- medical tests
- psychiatric/psychological tests
- emergency shelter
- other emergency placement (e.g. nursing facility or personal care home)
- completion of forms (e.g. medical assistance applications)
- receipt of reports
- provision of in-home services
- access to records
- transportation
- removal and care of pets
- secure home and property
- forcible entry

Forcible Entry

Section [§15.74](#) permits a AAA to request a court order for forcible entry to the premises where an older adult at imminent risk of death and serious physical harm is located by requesting the court to direct a local or state police officer to carry out the forcible entry accompanied by a representative of the AAA. Police do not have authority under Chapter 15 to provide forcible entry without a court order.

If the AAA identifies there is clear and convincing objective evidence that an emergency court order is required protect the older adult from imminent risk of death or serious physical harm, the AAA should discuss the case with the solicitor. The PS caseworker must send the solicitor a written request to petition the court for an emergency order.

The solicitor petitioning the court may require information utilizing their own specified template. Additionally, [§15.72\(a\)](#) provides a detailed list of information that shall be stated in the petition. Therefore, this information shall be provided in the request sent to the solicitor to assure that the petition provides the court with all the necessary information to either grant or deny the petition. The PS caseworker must obtain the following information to provide to the solicitor or other individual preparing the petition:

- Name, age and physical description of the older adult insofar as these facts have been ascertained
- Address or other location where the older adult can be found
- Name and relationship of a guardian, caregiver or other responsible party residing with the older adult, when applicable
- Detailed description of how the older adult is at imminent risk of death or serious physical harm
- Physical and mental status of the older adult, to the extent known

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- Attempts made by the AAA to obtain the informed consent of the older adult or the older adult's court appointed guardian, when applicable, to the provision of protective services by the AAA
- Specific, short-term, least restrictive involuntary protective services which the AAA is petitioning the court for an order to provide
- Description of how the proposed services would remedy the situation or a condition which presents an imminent risk of death or serious physical harm
- A statement showing why the proposed services are not overbroad in extent or duration and why less restrictive alternatives, as to their extent or duration, are not adequate
- A statement that other voluntary protective services have been offered, attempted or have failed to remedy the situation
- A statement that reasonable efforts have been made to communicate with the older adult in a language the older adult understands in the case of an older adult who has a hearing impairment or where English is not their primary language.
- Other relevant information deemed appropriate by the AAA.
- Request an emergency order of a specific duration which may not exceed 72 hours from the time the order is granted.
- Request the court of common pleas to hold a hearing when the initial emergency order expires to review the need for an additional emergency court order or other continued court and protective services.

[Section 15.72\(b\)](#) provides that nothing in OAPSA precludes or prohibits the oral presentation of a petition for emergency involuntary intervention. When oral presentation is warranted, the written petition shall be prepared, filed and served on the older adult and counsel within 24 hours of the entry of the emergency order or on the next business day, when the 24-hour period would fall on a weekend or legal holiday.

[Section 15.72\(c\)](#) provides that nothing in OAPSA precludes or prohibits the oral presentation of a petition for emergency involuntary intervention. When oral presentation is warranted, the written petition shall be prepared, filed and served on the older adult and counsel within 24 hours of the entry of the emergency order or on the next business day, when the 24-hour period would fall on a weekend or legal holiday.

[Section 15.72\(d\)](#) provides that an emergency order will not exceed 72 hours, without a request for an extension. The request for an extension must be justified to a judge. If necessary, the AAA can request a full hearing for an Older for PS involvement. The issuance of an emergency order is not evidence of the competency or incompetency of the older adult.

In the event the AAA recognizes the solicitor is not acting with appropriate urgency or has refused to petition the court and the AAA is confident there is clear and convincing evidence that without intervening the older adult is at imminent risk of death or serious physical harm, the AAA shall notify the assigned PS Specialist. The PS Specialist will

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contact PDA's Legal Department for counsel and provide a copy of the information previously provided for the solicitor.

If the AAA continues to have ongoing issues with their contracted solicitor, the AAA shall attempt to resolve utilizing administrative procedures including the involvement of their county's Department of Human Services Administrator, Chief Executive Officer, County Administrator, County Commissioners, or arranging a contract with a different solicitor.

xii. Remain Actively Involved

If the Involuntary Intervention petition is granted, the PS caseworker's involvement and responsibility continues. Close contact must be maintained with the older adult, providers of service, legal counsel and the courts so that the PS caseworker can:

- assure compliance with the court order
- ascertain and document the impact of those services to the overall reduction of risk
- collect sufficient information to report back to the court when the order expires
- make further recommendations on the need and necessary services to reduce additional risk
- respond to questions by the judge and older adult's attorney at the follow-up hearing
- implement a service plan, if one is agreed upon, at the follow-up hearing
- be prepared to terminate protective services if so ordered
- determine when it may be appropriate to terminate protective services
- maintain appropriate contacts and follow-up for any additional court orders
- assure continuous legal representation, if appropriate

Additionally, [§15.75](#) provides when an AAA obtains an involuntary intervention, they AAA must take reasonable steps to protect the older adult's residence and any dependents while the older adult is receiving services under the emergency order. The AAA is not responsible for the actual provision of all needed services but shall coordinate referrals and follow-up to assure the needed services and protections are being provided and maintained. This could include but is not limited to:

1. Making sure older adult's home is locked and secure
2. Arranging for the care of animals
3. Arranging for the care of any dependent individual for whom the older adult may have been providing support

G. RIGHTS OF PROTECTIVE SERVICE CLIENTS

Section [§15.81\(1\)](#) requires that the older adult be discreetly notified that a RON was received and is entitled to a brief summary of the nature of the report.

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Documentation of this notification is placed in the older adult's protective services electronic care plan journal.

During the investigation, the older adult's safety is always the priority. If there is a concern that informing the older adult of the RON at the initial visit or by telephone may place them at risk, the PS caseworker can postpone the notification, however, the notification is still required and must be completed at an appropriate point during the investigation.

An older adult has the right to the confidentiality of information received and maintained by the AAA in reports, investigations, services plans and other elements of a case record.

H. DEATH OF AN OLDER ADULT

If the alleged victim is deceased at the time the RON is received, the AAA takes the RON, categorizes it as No Need for protective services and does not conduct an investigation.

As stated under [§15.46\(g\)](#), if the death of an older adult reported to need protective services occurs prior to the AAA's investigation of the report, during the investigation or at any time prior to the closure of the protective services case, when there is some nexus between the death and the need for protective services, the AAA shall immediately report that death to the police and the county coroner. This is the requirement for both voluntary and mandatory reports received by the AAA.

1. Reporting actions for a *mandatory abuse* report involving a suspicious death (See Appendix C.1 and E.3 for both facility and AAA requirements for a mandatory abuse report)

There is currently no OAPSA definition for the term "suspicious death", however, the dictionary definition for suspicious is: tending to arouse suspicion, questionable, or disposed to suspect. Therefore, a suspicious death is a death that is unexpected, and/or its circumstances or cause is medically questionable or suspect or legally unexplained.

The PS caseworker must:

- Make an oral report to the coroner when there is reasonable cause to suspect that the older adult may have died as a result of abuse or neglect. The PS caseworker does not have to have absolute proof that the death may be related to abuse or neglect to make this report.
- Provide the coroner with a written mandatory abuse report. The mandatory abuse form or PB 22, provided by the facility, can be used as the written report. The PS caseworker is required to fill in the coroner sections, labeled "AAA use only".

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- Make an oral report to local law enforcement. Although not listed under [§15.154](#), the obligation to report to law enforcement is listed under [§15.46](#) and is a requirement under Chapter 15 for all reports and investigations where there is a nexus between the death and the need for protective services.
- Determine if a report to the Office of the Attorney General under requirements of Title 18 PA Crimes Code (cc [2713](#) or [2713.1](#) – Neglect or Abuse of a Care Dependent Person) must be made. If the AAA is required to report the death to the Office of the Attorney General, please follow instructions detailed in Appendix G.3.

AAA Release of Information to Law Enforcement - Mandatory Reports:

Under [§10225.705\(b\)](#) upon request, the information in the report can be made available to law enforcement officials, of any jurisdiction, as long as the information is relevant to their investigation. If law enforcement officials request the identity of the person that made the mandatory report, the identification of the reporter can be provided. **This is for mandatory reports only.**

Any information provided to law enforcement must include the standardized cover letter explaining the regulation/statute providing authority to provide the confidential information from the report, advise the law enforcement official the reporting sources must be treated confidentially.

2. Reporting actions for a *voluntary abuse* report when a death may be the result of abuse or neglect (see “f. Collaboration with Licensing, Law Enforcement, and Others” under Section IV. of this Chapter.)

The PS caseworker must:

- Make an oral report to the coroner when there is a possible nexus between the older adult’s death and the reported need for protective services. The PS caseworker does not have to have absolute proof that death may be related to abuse or neglect to make this report.
- Make an oral report to local law enforcement. Although not listed under [§15.154](#), the obligation to report to law enforcement is listed under [§15.46](#) and is a requirement under Chapter 15 for all reports and investigations where there is a nexus between the death and the need for protective services.
- Determine if a report to the Office of the Attorney General under requirements of Title 18 PA Crimes Code (cc [2713](#) or [2713.1](#) – Neglect or Abuse of a Care Dependent Person) must be made. If the AAA is required to report the death to the Office of the Attorney General, please follow instructions detailed in Appendix G.3.

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AAA Release of Information to Law Enforcement - Voluntary Report:

Under [§15.46](#), there is no regulatory requirement for the PS caseworker to give the coroner or the police a written report once an oral report is made. When an investigation by the AAA results in a report of criminal conduct under [10225.306\(b\)\(1\)](#) law enforcement officials shall have access to all relevant records maintained by the AAA.

The identity of a voluntary reporter is never given to law enforcement, unless under court order. The release of information that would identify the person who made a report of suspected abuse, neglect, exploitation or abandonment or a person, who cooperated in a subsequent investigation, is prohibited unless the Secretary of Aging can determine that the release will not be detrimental to the safety of the person.

3. Notification to PDA:

An AAA shall notify PDA when an alleged victim/victim dies while a protective service investigation/case is active. The notification shall be in writing as soon as the supervisor is notified of the death. For clarification, an active protective services case includes any case where an investigation has been initiated, is being conducted or services are being coordinated/provided, or any other case that has not yet been completed and closed per PDA directive. This includes any death of the alleged victim/victims, regardless of whether there is a nexus between the death and the need for protective services.

The PS caseworker assigned to the case shall notify their supervisor immediately after becoming aware of the alleged victim/victim's death. All notifications to PDA of the alleged victim/victim's death during an active investigation/case shall be made as soon as the PS supervisor is notified of the death. Notification shall be made by e-mail to the AAA's assigned zone.

Notification shall include:

1. The older adult's SAMS ID number
2. The date that the alleged victim/victim died
3. A brief summary of the AAA's involvement with the older adult.
4. A statement indicating whether the AAA believes there is a nexus between the death and the need for protective services. If the AAA identified a nexus, the date and time of notification to the law enforcement and coroner shall be included in the email notification to PDA.

I. PROTECTIVE SERVICES COLLABORATION WITH LICENSING, LAW ENFORCEMENT AND OTHERS

1. Collaboration with Licensing

Protective services have a vital role in protecting older adults residing in or receiving services from licensed facilities (see definition for facility under [§15.2](#)). It is important to

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remember that the licensing oversight entity, such as Department of Health or Department of Human Services, is responsible for assuring that the facility is following the regulatory requirements set forth for that specific facility. While a licensing entity aims to assure that those residing in or receiving services from a facility are receiving quality care and are free from abuse, their role is very different than protective services. Protective Services is charged with providing protective services for older adults.

The Ombudsman must not be a substitute for protective services. The Ombudsman is responsible for resolving complaints and issues for older adult residents of a long-term care facility. A complaint investigation undertaken by the Ombudsman is for the purposes of resolving a resident's complaint or concern. Likewise, the Ombudsman is prohibited from sharing any details of their investigation without the permission of the resident. For these reasons, the Ombudsman is not to be identified as a substitute for protective services, though in some cases, coordination may be in the best interest of the older adult, in order to achieve the best outcome. Refer to Appendix E.6. for clarification on the difference between PDA and Ombudsman programs.

[Section 15.45\(b\)\(2\)](#) requires that the during the course of the investigation, the AAA shall coordinate its investigative activities and findings with the licensing entity to avoid duplication of effort and to foster jointly developed remedies to situations requiring protective services intervention. However, the coordination/collaboration with another AAA does not absolve the protective services unit from their responsibility of providing protective services for older adults in need of services.

Upon notification that an employee is alleged to have committed abuse, [§15.156\(a\)](#) requires a facility to immediately develop and implement an individual plan of supervision or, when appropriate, suspension of the employee when notified that an employee is alleged to have committed abuse. The facility shall submit to the AAA and the licensing entity a copy of the employee's individual plan of supervision for approval. For consistency purposes, the AAA is to collaborate with the appropriate licensing entity regarding the approval of the plan of supervision. Please see more information about restrictions on employees under Appendix E.3.

If at any point the AAA suspects that an administrator or a designee or facility owner has intentionally or willfully failed to comply or obstructed compliance with reporting suspected abuse under [§§15.151-15.158](#) shall be subject to penalty. The AAA shall notify PDA in writing of the facility and administrator name, owner, operator or designee suspected of committing the violation and a description of the suspected violation. PDA shall make a report to the appropriate licensing AAA of the suspected violation as required under [§15.158\(a\)\(3\)](#). When warranted or upon request by the AAA, PDA may collaborate with the licensing AAA on facility-related issues with compliance of mandatory reporting or a facility's failure to comply with the AAA's authority to conduct investigations.

2. Collaboration with Law Enforcement

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The AAA in each planning and service area shall work on establishing and maintaining relationships with law enforcement officials and other professionals that assist older adults at all levels in the judicial system. Regular communication and education about issues and trends that impact older adults will assure a coordinated and timely response when older adults are victimized.

The aging services network and law enforcement must work cooperatively in identifying and responding to elder victimization. Since coordinating activities with law enforcement is required under [§15.46 \(b\)](#), establishing an Elder Abuse Task Force is one of the best forms of interdisciplinary, community-based coordination at the local level. An Elder Abuse Task Force is also an effective way to prevent victimization and to protect and advocate for older adults that have been victimized.

Under [§15.46](#) the AAA shall fulfill the following minimum coordinating activities:

(1) Achieve specific coordination objectives with:

- (i) Police departments in the planning and service area.
- (ii) The district attorney's office.
- (iii) State Police field installations for the planning and service area.
- (iv) Officials of the court system.
- (v) Legal assistance agencies.

(2) Establish designated points of contact with law enforcement agencies to facilitate access when necessary.

(3) Establish basic procedures to be followed when the AAA makes reports of criminal conduct or requests for special assistance to law enforcement agencies and when the law enforcement agencies report the need for protective services to the AAA.

(4) Provide for the necessary exchange of information about protective services for older adults and the role of law enforcement in the provision of those services. Older adults not only benefit from the provision of protective services offered by the AAA, but they can also benefit from the relief provided by the judicial system. Older adults have the right to seek restitution and justice for harm that they may have suffered. By exchanging information and establishing protocols, AAA staff, law enforcement and other professionals can work together, share knowledge and perspectives and establish protocols and goals to meet the needs of older adults in their community.

Protective services staff must be familiar with applicable sections of the criminal code they may encounter in their duties as protective services caseworkers. Protective services supervisors shall identify new or ongoing training needs and make efforts to meet the training needs of staff. Some training needs may be met through an Elder Abuse Task Force.

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Referral process protocols shall be developed by the AAA for when it is appropriate to report criminal activity identified during protective service investigations. Protocols should be easy for PS caseworkers to follow. If an investigation by the AAA results in a report of criminal conduct, law enforcement officials shall have access to relevant records maintained by the AAA or the department. When an AAA provides law enforcement with records, documents, photographs, etc., under [§§15.105](#) or [15.157](#), the AAA must document the release of the records with the standardized cover letter citing the regulation authorizing the release of the records. The cover letter must include a concise and clear outline of the following information:

- The information is statutorily confidential
- Why the AAA is sending the records for law enforcement review
- What the AAA is requesting law enforcement to do with the information provided
- Summary of the allegations
- Factual findings of the investigation
- What documents they are providing
- AAA's concerns
- Contact information for AAA staff most knowledgeable about the facts of the case

When an investigation by the AAA results in a report of criminal conduct, law enforcement has access to the relevant records in the investigative file under §15.105(2). Law enforcement cannot ask the PS caseworker to obtain records or documents that they did not or would not collect in the normal course of the PS investigation. Caution must be taken so the PS caseworker is not seen as an agent of law enforcement.

PS caseworkers are obligated to educate older adults and inform them of any civil or criminal relief options as part of a protective services plan when appropriate. When an older adult requests assistance in accessing criminal and civil remedies the PS caseworker shall respond to the request and assist with referrals, advocacy and support.

Protective services caseworkers can make referrals to law enforcement when:

- A PS caseworker is witnessing a crime in progress.
- An older adult, a court-appointed guardian or power of attorney (when the older adult lacks capacity to consent) requests or agrees to the referral.

Note: In cases where the POA agent is acting on behalf of the older adult, a copy of the signed POA document must be obtained by the AAA and uploaded into the electronic case file. If the documentation is not obtained by the AAA, the POA cannot be permitted to act on behalf of the older adult.

- PS caseworkers identify neglect or abuse of a care dependent person. PS caseworkers are mandatory reporters under [18 Pa C.S. §2713](#) (Neglect of Care Dependent Persons)- see Appendix G.1-G.5.
- If the PS caseworker believes that a crime has been committed, and the older adult

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consents, or a guardian/power of attorney gives consent on behalf of the older adult, a referral to law enforcement can be made. This is usually when referrals are completed for suspected theft in financial exploitation cases.

Establishing relationships with local law enforcement is a benefit for both older adults and protective services caseworkers. When appropriate, local law enforcement can accompany protective services caseworkers when there is an indication in the RON that the PS caseworker may be placed in a dangerous situation. Protective services units are encouraged to develop relationships and establish points of contact to streamline communication when there is a need for police assistance.

[Section 15.74](#) permits law enforcement to use forcible entry to the premises where an older adult is at imminent risk of death or serious harm where a court order has directed such action. Law enforcement will not use forcible entry, in most situations, without a court order. An access order obtained by the AAA under [§15.61](#) should include language, requesting the court direct that a local or State police carry out the forcible entry to allow forcible entry if necessary. Forcible entry is obtained through a court order for entry of the premises where an older adult at imminent risk of death or serious harm is located. See more details about forcible entry under [§15.46\(e\)](#), [§15.74](#), “Involuntary Intervention” under Section VI. of this policy and procedural document as well as “f. PS Collaboration with Licensing, Law Enforcement and Others” under Section IV.

When law enforcement conducts an investigation at the same time as a protective services investigation is being conducted, both investigations continue simultaneously. Per §15.46(f), law enforcement does not have the authority to stop or suspend a protective services investigation. If law enforcement verbally requests that the alleged perpetrator *not* be contacted and/or interviewed by the PS caseworker, the PS caseworker can accommodate this request, however, shall require a written request from law enforcement. It is especially important that documentation of this request by law enforcement is included in the electronic case record. Documentation of this request provides a record of why the AAA did not interview the alleged perpetrator.

After the written request is received and the AAA has determined that not interviewing the alleged perpetrator does not leave the older adult at risk, the AAA may cooperate with the request. If law enforcement does not comply with the written request, this must be documented in the case record, and the PS caseworker must consult with the AAA’s PS Supervisor

The PS Supervisor will contact law enforcement to explain the responsibilities of protective services under OAPSA and the need for the written request. The AAA should contact their assigned PS Specialist if concerns continue after contact by the PS Supervisor. Although not ideal, an alleged perpetrator does not have to be interviewed to make an investigative determination of substantiation or unsubstantiated in these situations. Whenever possible, the perpetrator designation should be postponed until the alleged perpetrator interview can be conducted by either PS or law enforcement.

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Even if law enforcement is involved, it does not change protective services' statutory obligation to investigate the allegations and act to protect the older adult when appropriate. Under [§15.46\(f\)](#), a protective services investigation shall continue simultaneously with a police investigation. Law enforcement investigations are only geared toward the prosecution of the abuser. The purpose of a protective services investigation is to determine if there is risk to the older adult. If risk is identified, the role of protective services is to work with the older adult to develop a service plan to reduce or eliminate the risk(s).

J. INTERVIEWING

1. Interviewing Process

During a protective services investigation, it is necessary to conduct interviews with the appropriate collateral contacts to obtain enough information to form an objective view of older adult's situation. The PS caseworker is responsible for the timing of each interview conducted during an investigation however, activities that would ensure the safety of the older adult should occur first. The PS caseworker must comply with the timeframes provided in 15.42(d) to assure that the investigation is conducted expediently. Interviews with appropriate collateral contacts must be pursued based on the details of the case presented.

The appropriate collateral contacts may include professionals such as service providers, medical staff, social workers, etc. A PS caseworker can also gain an important perspective by interviewing such collateral contacts as, relatives, friends, neighbors, or other individuals that may have information regarding the older adult.

The PS caseworker has the discretion to determine the timeline of when to interview such collateral resources and who to interview. These interviews should occur in an order based on the investigative plan the PS caseworker developed. These types of collateral contacts can be interviewed without breaching confidentiality by using appropriate questions. The following is an example of how to initiate an interview:

- "My name is Sally and I work for the local Office on Aging. We received a referral for your [friend, neighbor, relative, etc.], Mrs. Older Adult. I am visiting today to see if you have any concerns about Mrs. Older Adult or if there is any information that you could provide me so I can determine if there are any services our AAA can offer to assist her."

Such an opening, with additional questions to the responses provided (without providing details of the RON or other confidential information), will likely invite a conversation regarding the older adult where the PS caseworker can ask additional questions.

Interviewing collateral contacts especially eyewitnesses or those with direct knowledge of the incident or older adult, is part of the investigation and assists in determining if a report is substantiated. Investigations are fluid, and while there is no set course of action for every type of investigation, pre-investigative planning and organizing should be done

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to assist the PS caseworker in the investigation process. The interviewing process must be systematic, logical, and comprehensive to incorporate and support the specific facts of the case. The types of interviews a PS caseworker may conduct include, but are not limited to, the following examples:

- Facility Interviews:
 - The older adult
 - The primary care physician
 - Direct care and ancillary staff
 - Business office staff (for financial status of older adult)
 - Eyewitnesses to an incident such as family, staff, roommates, etc., if appropriate
 - Licensing staff

- Community Interviews:
 - The older adult
 - The older adult's primary care physician or other caregivers/professionals
 - Interviewing sufficient collateral contacts and eyewitnesses to obtain an objective understanding of the situation
 - Family and other involved informal supports
 - Eyewitnesses to an incident such as family, staff, roommates, etc., if appropriate

Interviews are conducted to determine if the older adult is/was in need of protective services. There is no established number of collateral contacts that must be interviewed; however, in most cases, investigations restricted to interviews with only the older adult or the older adult and the alleged perpetrator will not be considered sufficient. It is understood that there are older adults that are so isolated that the protective services caseworker is unable to locate additional collateral contacts to interview for the purpose of the investigation. In these circumstances, the protective services caseworker should clearly document the efforts to conduct an in-depth investigation. See more information about investigative planning and a systematic investigation is located under Section D of this Chapter entitled "Investigative Process".

There are several reasons why the alleged perpetrator(s) and the older adult are not considered adequate as sole contacts in an investigation. When older adults are interviewed, they may be fearful, intimidated, influenced by others, or have impaired cognitive functioning, hindering their ability to know or communicate what occurred. When perpetrators are interviewed, they rarely implicate themselves or may minimize their role in the abuse, neglect, exploitation, or abandonment. It is strongly recommended that the protective services caseworker interview the alleged perpetrator, which will provide them the opportunity to tell their side of the story and provide any documentation, or other evidence, to support their actions/inaction.

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If the PS Caseworker has made thorough and repeated attempts to interview or locate an older adult, the PS case record should reflect all attempts made. As a last resort, the PS Caseworker can send a certified letter to the older adult indicating that the AAA is attempting to contact them regarding free services that the older adult may be eligible for and, that how the older adult can reach the PS Caseworker. The reason for sending a certified letter is that it provides the sender with a mailing receipt and electronic verification that an article of mail was delivered or that a delivery attempt was made. This receipt of delivery is to be part of the PS case records.

Under no circumstance should the PS caseworker send correspondence to the older adult's last known physical or electronic address specifically indicating that protective services have been attempting to contact/locate them. This action could adversely increase the risk to the older adult and/or breach confidentiality if someone other than the older adult was to access the correspondence. Additionally, this approach does not meet the regulatory requirements outlined in [§15.42\(d\)](#) which states that the investigation of the report is completed only when the report has been determined to be substantiated or unsubstantiated and, if substantiated, after necessary steps have been taken to reduce an imminent risk to the older adult's person or property. As last resort, a certified, general AAA informational letter regarding the availability of services and requesting that the older adult contact the AAA is permissible.

Documenting Interviewing Activities:

The PS caseworker must carefully document all contacts and/or attempts made to contact individuals. It is advised that the PS caseworker list all collateral resources with a brief description of the worker's findings. The PS caseworker must be assured that they have taken and documented all reasonable steps to validate the case determination. The records must show that potentially relevant information was obtained and analyzed by the PS caseworker. However, if after a thorough investigation, a PS caseworker is unable to identify many (or any) significant others who can offer corroborating information, this information must also be documented.

It is understood that on rare occasions, there may be older adults that are so isolated that the PS caseworker is unable to locate additional collateral contacts to interview for the purpose of the investigation. In these circumstances, the PS caseworker should clearly document their efforts to conduct an in-depth investigation.

i. Executive Functioning and Capacity

Capacity can be defined as an ability to comprehend both the nature and consequences of one's actions.

It is important for a PS caseworker to observe and assess an older adult's executive functioning and decision-making ability regarding a specific risk identified during the investigation and to detect cognitive impairment. There are times when an older adult can answer specific questions posed to assess his/her cognition, however they do not

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recognize the identified risk in their own situation, nor can they develop a plan to address that risk. It can be difficult to pinpoint what the issue is or why the older adult is unable to make a plan to improve their situation or to remove the risk.

Executive function is the higher-level cognitive skills used to coordinate other cognitive abilities and behaviors. These mental functions work together to help organize and manage the many tasks throughout daily life.

Types of Executive Functions:

- **Organization:** planning, sequencing, problem solving, working memory, cognitive flexibility, abstract thinking, rule acquisition, selecting relevant sensory information.
- **Regulation:** initiation of action, self-control, emotional regulation, monitoring internal and external stimuli, initiating and inhibiting context-specific behavior, moral reasoning, decision making.

Symptoms of Executive Dysfunction:

- Socially inappropriate behavior
- Inability to remember consequences
- Difficulty with abstract concepts
- Difficulty with planning and initiation
- Difficulty with verbal fluency
- Inability to multitask
- Difficulty processing, storing and/or retrieving information
- Loss of fine motor skills
- Moody or “roller coaster” emotions
- Lack of concern toward people and animals
- Loss of interest
- Unawareness that their behavior is a problem
- Lack of inhibition
- Unable to plan

Citation: memory.ucsf.edu

An older adult’s ability to understand risk can be impacted by impaired executive functioning and can negatively impact an older adult’s daily life and their ability to process their situation and keep themselves from harm. While PS caseworkers are not trained to clinically assess executive functioning, they can observe and document an older adult’s behaviors and their responses to an identified risk or given situation. Referrals to clinical staff to formally assess executive functioning should also be completed when appropriate.

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Reports may be substantiated based on deficits exhibited by an older adult's inability to identify risk, make a plan or follow through on the plan to reduce the risk. Older adults with impaired executive functioning frequently present with no "orientation" issues. When executive functioning issues are identified, they need to be documented in the older adult's case record. The impact of executive functioning deficits will be different for every older adult.

The regulatory definition of incapacity is not limited to cognitive deficits. An older adult is considered incapacitated if, because of one or more functional limitations, needs the assistance of another person to perform or obtain services necessary to maintain physical or mental health. Incapacity can be a cognitive deficit, executive functioning issues, physical or mental health diagnosis, fear, intimidation or any other limitation that impacts the older adult's ability to obtain services independently.

Care shall be taken to review all areas of possible incapacity and not focus solely on the cognitive abilities of the older adult. Assessing only cognitive abilities and using the phrase "alert and oriented" shall be avoided. All areas impacting incapacity shall be explored during the investigative process (see "Criteria for Protective Services" under Section III. of this policy and procedural document for additional information.)

K. ABUSE AND NEGLECT CASES

1. Definitions

The definition of abuse under [§15.2](#) is:

- (i) The occurrence of one or more of the following acts:
 - (A) The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.
 - (B) The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.
 - (C) Sexual harassment, rape or abuse, as defined in 23 Pa. C.S. Chapter 61 (relating to Protection from Abuse Act).
- (ii) No older adult will be found to be abused solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing, or medical care.

Abuse can appear in many forms, including physical, sexual, emotional, verbal, and other types of abuse. Abuse can be subjective and may be based on the older adult's feelings, emotions, thoughts, and opinions. A PS caseworker must always carefully examine the situation and consider the older adult's perspective and the physical and emotional evidence/findings when making an investigative decision.

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The definition of abuse includes the term *mental anguish*. *Mental anguish* can be the result of different types of abuse. Older adults can express mental anguish in many forms including:

- Depression
- Feelings of humiliation
- Stress
- Fear
- Grief
- Anxiety
- Change in behavior

The definition of neglect under [§15.2](#) is:

The failure to provide for oneself or the failure of a caretaker to provide goods and services essential to avoid a clear and serious threat to physical or mental health. An older adult who does not consent to the provision of protective services will not be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

2. Investigating Abuse and Neglect

Investigating abuse and neglect involves a systematic inquiry conducted by the PS caseworker to determine if, the abuse and/or neglect, allegation made in a report of need for protective services can be substantiated, or if the older adult referred to in the report of need is an older adult in need of protective services or both.

Investigations of alleged abuse or neglect (including self-neglect) must include direct interviews with the older adult (when able) and the alleged perpetrator regarding the specific allegation, the accumulation of information including the older adult's medical condition(s), especially as it relates to the allegation(s). The older adult's primary care provider is an excellent resource and should be interviewed early in the investigation. Even if medical issues are not alleged, the older adult's physician is an excellent source of information regarding the older adult, their informal supports, medications, past behaviors, etc. Medical professionals must be included in investigations of abuse and neglect cases.

When interviewing the older adult's primary care provider, the PS caseworker must identify themselves as a PS caseworker and the purpose of the call while remaining discreet and providing only the minimum information necessary regarding the contents of the RON. The older adult has the right to confidentiality regarding their case during an investigation.

When questioning a primary care provider, the PS caseworker should also ask questions that will solicit information about potential abuse or neglect such as:

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- Have you ever observed any injuries or symptoms that may be associated with abuse?
- Have you observed any symptoms of malnourishment, dehydration or other symptoms associated with neglect?
- How reliable he/she has been in appropriately medicating himself/herself?
- Is your patient capable of making an informed decision?

These questions should be a routine part of the protective services investigation. A question regarding the older adult's cognitive functioning is important because it gives the PS caseworker information regarding the older adult's cognitive abilities. The older adult's cognitive functioning ability is important when developing the care plan.

Where an older adult has not seen a physician on a regular basis, pertinent information from a physician may not be available. In this scenario, other resources must be consulted to obtain information and may include, but are not limited to:

- Home Health Agency
 - Nurse Supervisor
 - Home Health Aide
 - Personal Care Worker
- AAA Consultant
 - Physician
 - Registered Nurse
- MH/ID Agencies
- Significant Others
 - Relatives
 - Friends
 - Neighbors

A medical opinion or information obtained from a medical professional, who is an alleged perpetrator, is employed by an entity involved in allegations of abuse, neglect, exploitation or abandonment, or who has a conflict of interest due to the allegations, may not be considered a reliable source of information due to the possible conflict of interest or biased nature of their input. On a case-by-case basis, the AAA may need an external medical opinion.

After conducting a thorough investigation, the PS caseworker should carefully document all interviews, investigative activities and efforts, including that medical information.

3. Twenty (20) Days to Determination- Abuse and Neglect

Older adults have the right to a timely investigation with minimal disruption to their lives and routine. Timely investigations are critical in identifying any imminent risk to the older adult's person and/or property so that necessary interventions can be implemented to reduce or eliminate the identified risk.

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Regulations indicate the PS caseworker shall make all reasonable efforts to complete an investigation of a RON for protective services as soon as possible and, in cases of abuse, and neglect at least within 20 calendar days of receipt of the report as provided in [§15.42\(d\)](#). These cases are not required to be *closed* within 20 calendar days.

The investigation of the report is completed only when the report has been determined to be substantiated or unsubstantiated and if substantiated, after necessary steps have been taken to reduce an imminent risk to the older adult's person or property. This requires that all documentation is included in the electronic case file.

When an investigation of abuse and neglect cannot be determined within 20 calendar days due to reasons out of the control of the PS caseworker, documentation must be provided in the electronic case file explaining why this regulatory requirement could not be met. The case record must also adequately indicate that the delay was out of the PS caseworker's control and without lapses in investigative activity.

Financial exploitation allegations are not required to be completed within 20 calendar days; however, if abuse and/or neglect is also alleged on the RON, investigation into those allegations must be completed within 20 calendar days of the receipt of the RON.

A PS caseworker must probe for all types of abuse beyond what was alleged on the RON before deciding to substantiate or unsubstantiate a case. If the allegations are not true and the older adult does not meet the criteria for protective services, the case is unsubstantiated. The PS caseworker shall substantiate the case if the allegations in the RON are true and/or the older adult meets the criteria for protective services. The PS caseworker shall promptly document in the ISA, the date that each allegation is substantiated or unsubstantiated as soon as the determination is made. The PS caseworker shall immediately record the determination for each abuse type.

See the ISA Instructions and the OAPSA Documentation Procedural Manual in Appendix D for the documentation requirements regarding dates of determination.

Abuse and neglect investigations will be considered out of compliance during the AAA's next monitoring when the case record does not contain adequate documentation indicating that the AAA made all reasonable attempts to complete an abuse or neglect investigation within 20 calendar days. Please refer to Section IX, titled "Quality Assurance Protocol" for details regarding quality assurance monitoring protocols.

L. FINANCIAL EXPLOITATION INVESTIGATIONS

1. Investigating Financial Exploitation

PDA has developed training and resources on how to investigate financial exploitation cases available to the AAA network. Any questions regarding how to conduct these

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investigations or the interpretation of any legal documents should be brought to the attention of the AAA's PS Supervisor, Director, or attorney. In addition to these resources, PDA PS staff or contracted staff (PDA's Institute on Protective Services at Temple University, Harrisburg Campus), can be consulted.

To substantiate a case for financial exploitation, it is necessary to document that the alleged perpetrator acted against the older adult or older adult's resources without the informed consent of the older adult or with consent obtained through misrepresentation, coercion, or threats of force that results in monetary or personal benefit, gain, or profit for the perpetrator or monetary or personal loss to the older adult.

For substantiated financial exploitation cases, it is necessary to obtain and document the following data in the case file:

- Total monetary loss
- Total assets protected
- Total restitution made to the older adult (if applicable)

After consent is obtained from the older adult or his/her legal representative, the PS caseworker must obtain and review bank records and any other documents that are relevant. The purpose of the review is to identify the older adult's historical spending patterns and if financial exploitation is occurring or has occurred. Financial exploitation investigations must include documentation that summarizes the PS caseworker's analysis of all relevant financial information regarding the older adult. This review and analysis must include all money and assets alleged to be exploited from the older adult. Additional financial documents may be reviewed including deeds, mortgages, certificates of deposit, and/or stocks, bonds, wills, and mutual funds. It is important to remember that there is no minimum dollar amount for taking a RON or substantiating an allegation of financial exploitation.

In cases where someone claims to be or is acting as the Power of Attorney (POA) agent, a copy of the POA document must be obtained by the AAA and uploaded into the file attachments for the older adult. In cases where the alleged perpetrator is the POA, it is best practice to contact the law firm that drafted the POA, if applicable, to ensure the POA has not been revoked.

Financial exploitation investigations are not required to be completed within 20 calendar days; however, the investigation should be completed as soon as possible and without lapses in investigative activity. The PS caseworker must document when the financial records are requested and when they are received.

Information regarding the older adult's cognitive functioning and ability to make decisions before, on or after the date of the incident(s) may be helpful in determining if the older adult understood the consequences of any decisions made. Medical professionals should be consulted to document the older adult's cognitive functioning at the time of the alleged exploitation.

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When investigating complex financial exploitation cases, the PS caseworker should attempt to obtain the expertise of either someone experienced in financial exploitation cases from within their own office or PDA's Institute on Protective Services (IPS) at Temple University, Harrisburg. Additionally, PDA staff can assist in the evaluation of financial records. The IPS at Temple University can be contacted for assistance, consultation, and expert analysis for complex financial exploitation cases. Any contracted accountant or other financial experts utilized must sign a confidentiality agreement prior to accessing an older adult's financial documents.

The term *financial exploitation* is not defined in the PA Crimes Code; however, "exploitation" is defined as a civil offense under Civil Financial Exploitation in [§10225.103](#).

- [Section 10225.103](#) defines "exploitation" as an act or course of conduct by a caretaker or other person against an older adult or an older adult's resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.

Elements of financial exploitation are similar to the elements of theft in the PA Crimes Code. The most charged crimes regarding financial exploitation cases include:

- Theft by Deception
- Theft by Unlawful Taking
- Failure to Make Required Disposition of Funds Received
- Forgery
- Identity Theft
- Access Device Fraud

While financial exploitation, when defined as theft, is a crime, the most important goal in any financial exploitation case is to stop the financial exploitation and to assist the older adult with the recovery of their funds or assets. Assisting in the recovery of the older adult's funds can be accomplished by:

- working with the bank or credit union to freeze or close the affected accounts, ONLY when protective services is certain that it will not put the older adult at more risk.
- filing claims for unauthorized transactions with the bank, credit union or credit card company.
- negotiating with the perpetrator to return the funds
- civil litigation instituted by or on behalf of the older adult
- criminal prosecution by law enforcement.

While many of these issues are complex there are available resources including:

- Area Agency on Aging solicitor
- Private legal counsel for the older adult

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- AAA contracted legal provider for older adult legal representation
- Institute on Protective Services at Temple University (Financial Exploitation Investigator)
- Department of Aging
- Elder Abuse Task Force
- Attorney General
- Power of Attorney, Guardianship Records for Review
- Contracted Forensic Accountant

2. Facility Financial Investigations

Older adults residing in the community or a facility are vulnerable to financial exploitation, and they are entitled to the same investigative process whether residing in a community or facility. Older adults living in facility settings are often compromised physically and/or cognitively. Their compromised status frequently leaves them susceptible to multiple forms of abuse including financial exploitation. Suspected financial exploitation of an older adult residing in a facility needs to be reported and investigated by protective services. Protective services investigations and protective services interventions must be provided to all older adults that meet the criteria, even if they reside in a facility.

i. Receiving a Financial Exploitation RON:

The regulatory definition of abuse does not include financial exploitation, therefore, when a RON regarding financial exploitation is received from a facility, the intake worker must determine, during the receipt of the RON, how the facility is classifying a report concerning financial exploitation.

- If the facility identifies the RON as a voluntary report, then the report is classified as a voluntary report. In this situation, the facility is not obligated to send the mandatory abuse reporting form or the PB22 (nursing homes only).
- If a facility classifies the RON as a mandatory report then the report is classified as a mandatory report. In this situation the facility is obligated to send the mandatory abuse reporting form or the PB22 (nursing homes only).
- If the facility does not specify whether the RON is a voluntary or mandatory report, the intake worker shall ask the reporter to decide what type of report they are making for the allegation of financial exploitation.

A AAA may receive a RON from a facility indicating an older adult's facility bill has not been paid. In those instances, the AAA shall confirm that financial exploitation is suspected and obtain detail regarding the suspected exploitation. In some cases, the nonpayment of an older adult's bills for services such as pharmacy bills, long-term care insurance policies, supplemental health insurance, and medical services may place the older adult at risk and shall be investigated by protective services.

AAAs can educate facilities on the difference between protective service investigations,

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provision of services and civil and criminal remedies. When training a facility on abuse reporting it would be appropriate to review that a report of financial exploitation does not guarantee that the AAA will be able to secure any back payment. AAAs can educate facilities on self-resolution of non-payment issues.

Facility education may include:

- Encouraging facilities to review their admission documents to ensure that older adults and their families or significant others understand that the older adult's money must be used to pay for the care/services being provided to the older adult (when appropriate) and the steps that will be taken if non-payment occurs.
- Discussing that a protective services investigation is separate from any civil or criminal remedies that the facility or the older adult has the right to pursue.
- Explaining that the purpose of a protective services investigation is to determine if financial exploitation occurred or is occurring.
- Reviewing what protective services are available when an investigation is substantiated and cautioning the facility that the focus of the provision of any protective services plan is on the older adult and not the interest or fiscal concerns of the facility.
- Explaining that a protective service investigation does not guarantee that the facility will receive any back payment for services that they provided.
- Reminding the facility that investigations are confidential, and that the AAA will be asking for information from the facility but may not be able to share information and findings unless the facility becomes a part of the older adult's service plan.
- Ensuring facilities are aware of and have documentation for all Powers of Attorney for an older adult.

A protective services financial exploitation investigation for an older adult living in a facility does not replace or stop the facility from pursuing a legal course of action. A protective services investigation and civil or criminal remedies are not mutually exclusive and can occur simultaneously. A referral of a financial exploitation case may only be made to law enforcement when an older adult, guardian or power of attorney consent to the referral. If the older adult or surrogate decision maker (that is not the alleged perpetrator) does not want the financial exploitation case prosecuted and the perpetrator signed a financial responsibility agreement, the facility may choose to file criminal charges as the victim or choose to file a civil action.

3. Types of Exploitation

Financial exploitation is typically perpetrated by individuals that fall into two categories:

- Family, Acquaintance or Caretaker
- Stranger

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Family members, acquaintances, and caretakers, with or without a fiduciary relationship, can financially exploit older adults by withdrawing money without their knowledge or consent. They can also transfer property without knowledge or consent.

Unauthorized activities can include:

- ATM Cash Withdrawals
- Stolen/forged checks
- Online payments against the older adult's account for paying their own bills
- Withdrawals from a joint account above the amount contributed
- Withdrawals from retirement accounts
- Unauthorized use of a credit or debit card
- Opening credit cards or obtaining loans without the older adult's knowledge
- Selling stocks/bonds/investments/life insurance/assets for their own gain
- Selling or transferring real estate without the proceeds benefiting the older adult, including purchasing the home below fair market value (e.g., for \$1)
- Drug theft

Exploitation by a Stranger:

A scam is a fraudulent or deceptive act or operation. Financial exploitation of an older adult often involves some sort of scam (work at home, lottery, sweepstakes, home repair) by someone the older adult does not know.

Contractor fraud is very common among older adults and is considered financial exploitation. Pennsylvania has the [Home Improvement Consumer Protection Act, 73 P.S. § 517.1](#). Under this Act contractors can be prosecuted for fraud when they do not perform services they contracted to complete. Assistance may be obtained through the state Attorney General's Office Contractor Hotline at 1-888-520-6680.

4. Fiduciary Relationships

A fiduciary relationship is a relationship where one party places special trust, confidence, and reliance in and is influenced by another who has fiduciary duty to act for the benefit of the party. Family members, acquaintances, strangers and caretakers, with or without a fiduciary relationship, can financially exploit older an adult by withdrawing money without the older adult's knowledge or consent. The following fiduciary relationships can exploit older adults by violating the fiduciary relationships by misusing the older adult's funds for their own purposes:

Power of Attorney (POA):

A POA is a written document in which an individual (the "principal") designates another person (the "agent") to exercise powers or perform acts on their behalf. The principal must be capacitated to sign the document and can revoke the agent at any time. Usually the document is "durable" which means it remains in effect after the Principal's

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incapacity. The Power of Attorney cannot replace the choices of a cognitively capacitated older adult.

In all cases where someone claims to be POA, a copy of the notarized POA must be obtained by the AAA and uploaded into the file attachments for the older adult. No person shall be considered POA without providing the signed and notarized POA. In cases where the alleged perpetrator is the POA, it is best practice to contact the law firm that drafted the POA, if applicable, to ensure the POA has not been revoked.

Guardian:

A guardian can be appointed only after a court has determined an older adult is incapacitated and has determined the appointment of a guardian is required. The court will appoint a legal guardian to care for the older adult. When an individual lacks the ability to care for or make decisions for themselves and they do not already have a Power of Attorney in place, Pennsylvania law allows the Orphans' Court to appoint a guardian of the person (for living arrangements and health care decisions) and/or a guardian of the estate (for financial matters). In some instances, a plenary guardian may be appointed to act in the best interest of the older adult in both of these areas. A guardian can also be appointed if an individual already has a documented Power of Attorney.

Other Types of Fiduciary Relationships:

There are other fiduciary relationships including representative payees and trust officers.

M. WHEN AN OLDER ADULT CANNOT BE LOCATED

If an older adult is alleged to be or is in need of protective services and cannot be located, PDA policy requires the AAA to make reasonable efforts to locate the older adult. Such reasonable efforts include but are not limited to the following:

- Visits at various times of the day, night, on weekends and/or holidays
- Contact with known relatives or friends
- Telephone calls to contact the older adult; however, telephone calls do not replace the face-to-face visit required in the regulations
- Utilizing collateral contacts to locate or facilitate a face-to-face visit with the older adult
- Collaborating with law enforcement, if appropriate

If appropriate, it may be helpful to collaborate with local law enforcement to conduct a joint visit, particularly if there have been repeated unsuccessful attempts to conduct a face-to-face visit with the older adult at various times and/or locations. AAAs can also contact law enforcement for safety concerns or if the AAA suspects/believes criminal activity may be taking

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place. Law enforcement may have access to other resources that can assist the agencies in locating an older adult.

In no instance, when an older adult's location is unknown, should the AAA send correspondence to the older adult's last known physical or electronic address indicating that protective services have been attempting to contact them. This action could adversely increase the risk to the older adult and/or breach confidentiality if someone other than the older adult was to access the correspondence. As last resort, a certified, general AAA informational letter regarding the availability of services and requesting that the older adult contact the AAA is permissible.

In situations where the PS caseworker concludes that the older adult is missing under unexplained, involuntary, or suspicious circumstances, or is believed to be at special risk of harm or injury due to age, health, disabilities, weather conditions, or is known to be in the company of a potentially dangerous person or some other factor that puts the person in peril of serious injury or death, the AAA shall request law enforcement to contact PA State Police (PSP) to request the activation of a Missing Person Endangered Person Advisory (MEPA). It is very important that the AAA explain every detail that causes significant concern for the older adult. If PSP feels the situation rises to the appropriate level, they will activate and send a MEPA out to its distribution network.

The protective services caseworkers shall be prepared to provide the following information to law enforcement to begin a search for the older adult.

- A physical description of the older adult or a recent photograph
- Identifying information such as eyeglasses, braces, marks, blemishes and scars, hair texture, tattoos, and any other unusual characteristics
- A description of what the person was known to be wearing the last time they were seen
- Details on when and where the person was last seen. If the older adult is suspected to be with another person, provide specific details on that individual
- A list of any known medical needs the missing person has such as cognitive impairment, asthma, depression, hearing aids, heart problems, medications, disabilities, psychological and communication needs, any mental health needs, etc.
- A list of friends and places frequented or habits of the older adult. Include full names, phone numbers, addresses, and work numbers
- Any vehicle information, such as what type and color of vehicle, license plate, who owns the vehicle, etc.
- Specific details that cause concern for the missing older adult

The protective services caseworker must make reasonable efforts to locate a "missing" older adult. The following actions shall be well documented, by the PS caseworker, in the electronic case record:

- attempts to contact the older adult

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- access to all known locations of older adult
- appropriate collateral contacts
- law enforcement contacts
- filing a missing person's report
- requests for updates from law enforcement
- supervisory consultations
- legal actions (access to persons), if applicable
- contacts to the PS Specialist

When a missing person's report has been filed:

The AAA is not permitted to close a case simply because a missing person's report was filed with law enforcement. The AAA must continue to act as the investigative AAA until the following requirements are fulfilled:

- the AAA has attempted to contact all known family, friends and collateral contacts with no new information provided.
- no new activity at the older adult's residence has been identified (curtains now opened/closed, lights now on/off, etc.).
- the AAA has documented in the SAMS case record to have made appropriate attempts to reach the older adult at different times and days and has accessed all known locations where the older adult frequently visits.
- all known information about the older adult (see above) has been provided to law enforcement.
- a missing person's report is filed with law enforcement; and
- confirmation from the AAA's Director that all required steps have been met.
- no new information has been obtained or law enforcement was not able to locate the older adult.

If law enforcement contacts the AAA with the location of the older adult within the six (6) month maintenance timeframe, the case shall be reopened, and a comprehensive investigation shall be conducted into the allegations originally received, as well as exploring all other areas of abuse/neglect.

A case where an older adult is unable to be located shall be closed thirty (30) days from the date the missing person's report was filed with law enforcement. The case shall then be closed and maintained for six (6) months. These six (6) months allow sufficient time for new developments to become known prior to case closure.

Where an older adult is unable to be located, but there is no reason to suspect that the older adult is missing under suspicious circumstances and/or in danger, the investigation shall be terminated once the AAA has satisfied all actions listed below. The case shall be closed and maintained for six (6) months.

When a missing person's report has NOT been filed:

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The AAA is not permitted to close a case simply because the older adult was not located. The AAA must continue to act as the investigative agency until the following requirements are fulfilled:

- the AAA has attempted to reach all known family, friends and collateral contacts with no new information provided.
- no new activity at the older adult's residence has been identified (curtains now opened/closed, lights now on/off, etc.).
- attempts to collaborate with law enforcement have been made, if appropriate.
- the AAA has documented in the electronic case record to have made appropriate attempts to reach the older adult at different times and days has accessed all known locations where the older adult frequently visits.
- confirmation from the AAA's Director that all required steps have been met; and
- no new information has been obtained or law enforcement was not able to locate the older adult.

If new information about the location of the older adult becomes available within the six (6) month maintenance timeframe, the case shall be reopened, and a comprehensive investigation shall be conducted into the allegations originally received, as well as exploring all other areas of abuse/neglect.

Documenting attempts to locate an Older Adult:

All attempts, including any details pertaining to efforts regarding initial and follow-up attempts to locate an older adult, shall be documented in the electronic reporting database currently being used by the Department.

N. ABBREVIATED INVESTIGATIONS

An abbreviated investigation is a shortened investigation into an allegation that has been fully and repeatedly investigated in the past. PDA has determined that there are rare occasions when an abbreviated investigation is appropriate. Care must be taken to complete an abbreviated investigation only when the PS caseworker, PS Supervisor and the AAA Director have reviewed the previous investigations and have determined that an abbreviated investigation can be completed.

If bad faith reporting is suspected, based on a pattern of unsubstantiated allegations by an individual, an AAA may consider an extremely limited investigation. AAAs are advised to clearly document their reasoning for the abbreviated investigation in these situations. Absent that type of scenario, reported cases must be investigated. Reluctant victims who qualify for protective services must be offered the opportunity to accept or refuse services even though they have refused in the past.

When there are multiple RONS, over a period of time, alleging the exact same allegations:

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An abbreviated investigation may only occur when specific allegations have been repeatedly investigated by the AAA (including different PS caseworkers), and unsubstantiated. The protective service record must contain written confirmation by the protective service supervisor and written acknowledgement by the AAA director that the abbreviated investigation was appropriate and justified. This signature indicates his/her review and agreement that the previous investigations into the allegations were comprehensive and unsubstantiated and no new allegations have been received by the AAA.

The AAA is responsible to review all previous information gathered and ensure that the new RON does not contain any new allegations. If new allegations are reported, a full investigation must be completed.

Abbreviated investigations require completion of the ISA, protective services care plan journal entries and all other documentation requirements. The use of an abbreviated investigation should be very rare. AAAs should always use caution and complete an investigation for all reports.

There are times when multiple RONs are received, for the same older adult, alleging the same issues. There may be a disgruntled family member or other involved party that repeatedly makes the same report to the AAA. It is recommended that AAAs consider using different caseworkers for subsequent reports received for the same older adult. This strategy provides a fresh perspective and possibly new insights to the older adult's situation. Example of multiple RONs:

- A third RON is received, alleging financial exploitation. The RON received contains the same information as two prior reports. The last two reports were received and thoroughly investigated by the AAA within the last five months. The older adult was interviewed multiple times during the last two investigations and financial records were obtained and reviewed. Collateral contacts were made. There was no evidence of abuse, neglect, exploitation or abandonment found during the two prior investigations. There was no evidence of the older adult being exploited, however, there is a known family dispute about a recent will change.

In the above scenario the new RON must be investigated however an abbreviated investigation may be appropriate. The report may not be classified as a *No Need*. The older adult must be interviewed. Additional interviews and collateral contacts can be made at the discretion of the PS caseworker. Information obtained from the prior investigations may be used for the current investigation. The information obtained from the last two investigations has not been destroyed because the regulatory time frame for destruction of records has not passed (6 months from the date the report was unsubstantiated).

V. RESOLUTION OF REPORTS

Following an investigation, the AAA is to determine if the RON is substantiated or unsubstantiated. In addition, there may be legitimate times when an AAA is unable to determine if the case should be substantiated or unsubstantiated.

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A. SUBSTANTIATION

Under [§15.44](#), when an investigation confirms the details of a RON (under [§15.23](#)) or determines that the subject of a report is an older adult in need of protective services, the report shall be classified as substantiated. When details of the RON are confirmed, the older adult must still meet the criteria or definition of an older adult in need of protective services outlined in [§15.2](#) in order to substantiate the case. If the investigation is found to be substantiated, the PS Caseworker shall follow the policies and procedures under Section VI. C. Delivery of Services of this Chapter in addition to statutory and regulatory requirements relating to service provision.

B. UNSUBSTANTIATION

If it is determined, following a thorough investigation, that the older adult is not in need of protective services, the RON shall be classified as unsubstantiated, and no protective services service plan may be offered. The case shall be closed and information identifying the person who made the report and the alleged perpetrator, if applicable, shall be immediately deleted from the case record. No further investigative actions or activities may be conducted. For information regarding documenting services needed for an unsubstantiated case and paid for by PS (e.g., legal fees, psychological evaluations, transportation of older adult, etc.), see below under C. Delivery of Services under Section VI. of this policy and procedural document and [§15.94](#) of the regulations.

An older adult or their legal guardian has the right to appeal a denial of protective services. Whether or not an agent acting under a Power of Attorney (POA) can appeal the denial of services depends on the terms of their POA agreement. The POA would have to be valid and specifically provide a sufficient level of authority for the attorney-in-fact to pursue an appeal. Note: In cases where someone claims to be or is acting as POA agent, a copy of the POA document must be obtained by the AAA and uploaded into the file attachments for the older adult.

As provided under [§15.43\(d\)](#), when an older adult who is the subject of an unsubstantiated report has needs for other services the older adult shall be informed of the other availability of services through the AAA or another appropriate community organization.

C. Unable to Determine

If the AAA is unable to confirm the allegations made in the RON or identify that the older adult is in need of protective services for some other reason, due to the reasons outlined below, the AAA may document that they were “unable to determine” (if the case was substantiated or unsubstantiated). If a AAA believes that they cannot determine for any other reason, the PS Caseworker or PS Supervisor shall consult with the AAA’s assigned PS Specialist. Examples include:

- The older adult died during the investigation before enough information could be gathered to make a determination on any one or more abuse types prior to death.

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Do NOT use this reason if a determination was made, but the older adult died prior to providing services and/or closing out the case; use the appropriate SUBSTANTIATED reason above, instead. See Section III: Program Eligibility Requirements for more information.

- The older adult left the jurisdiction of Pennsylvania before enough information could be gathered to make a determination on any one or more Abuse Types prior to leaving the jurisdiction of Pennsylvania. Do NOT use this reason if a determination was made, but the older adult left the jurisdiction of PA prior to providing services and/or closing out the case; use the appropriate SUBSTANTIATED reason above, instead. See Section 3 above for more information.
- The older adult is unable to be located.

VI. SERVICE PROVISION

Protective services are activities, resources and supports provided to older adults under OAPSA to prevent, reduce or eliminate abuse, neglect, exploitation and abandonment. This includes all activities listed under [§15.91\(a\) \(1-8\)](#).

Section [10225.304](#) states that the AAA shall offer protective services when: an older adult requests the services; or another interested person requests the services on behalf of an older adult; or after an investigation of a report, the AAA determines the older adult needs the services.

Once a case is substantiated, the PS caseworker must conduct an assessment, prepare and offer a service plan, and arrange for the delivery of services to prevent, reduce or eliminate risk. In many cases, the assessment is conducted after the PS Caseworker has determined that the older adult meets the definition of an older adult in need of PS.

Arrangement of services includes coordinating the sources of services and taking reasonable steps to assure that services necessary to achieve the goals in the service plan are provided. Prior to terminating a case, an in-person reassessment of an older adult shall be conducted to evaluate whether the services provided have been effective in preventing, reducing, or eliminating risk.

A. ASSESSMENT

Pursuant to [§15.92](#), the AAA shall, with the consent of the older adult, provide for a timely assessment. [Section 15.92](#) also requires the PS caseworker to make face-to-face contact with the older adult to conduct an assessment. The assessment is the first step in providing protective services to an older adult.

With the consent of the older adult, a timely assessment must be completed once an investigation is substantiated or where an assessment is necessary to determine whether or not the report is substantiated. The purpose of an assessment is to assist the PS

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caseworker in developing a PS service plan designed to address the risk(s) posed to the older adult.

[Section 15.92\(d\)](#) requires that assessment details be written so that the reader can determine which information came from the older adult and which constitutes the protective services caseworker's judgment. The older adult's responses should be placed in quotes. The protective services caseworker's observations and impressions shall be clearly labeled as such.

Under [§15.2](#), assessment is defined as: "determination based upon a comprehensive review of an older adult's social, physical and psychological status along with a description of the person's current resources and needs using the instruments and procedures established by the Department for this purpose." An assessment must be completed once an investigation is substantiated or when it will assist the PS caseworker to determine if a RON is substantiated or unsubstantiated.

If the older adult does not consent to the assessment, the AAA may petition the court for an order to require access under [§15.61](#) or [§15.71](#) (refer to "E. Access to Older Adults and Records" under Section IV. of this policy and procedural document for details).

B. REQUIREMENTS OF A SERVICE PLAN

An older adult has a right to participate in the development of his or her protective services service plan under [§15.93](#).

A service plan is defined under [§15.2](#) as: a written plan developed by the agency on the basis of a comprehensive assessment of an older adult's need which describes identified needs, goals to be achieved and specific services to support goal attainment, with regular follow-up and predetermined reassessment of progress.

Service plans are cooperatively developed by the AAA staff, the older adult or the older adult's legal guardian, and the other family members or significant others when appropriate. Specific services to support the goals outlined in the service plan may include homemaker services, home-delivered meals, attendant care, other in-home services, emergency shelter or food, legal aid services, transportation, and other services.

1. Offering a Service Plan

When protective services are needed, the PS caseworker collaborates with the older adult and/or appropriate others, to develop a service plan designed to reduce or eliminate the identified risks facing the older adult. This written services plan is then presented to the older adult for his/her consent to implement the services. Protective services may not be provided if an older adult does not consent to services. Best practice includes presenting the service plan more than once or working with the older adult to reduce the identified risk(s). the PS caseworker should ensure that adequate

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time is spent with the older adult to fully discuss the risk and alternative interventions that can assist in reducing or eliminating the risk(s).

If the older adult does not initially consent to the services being offered, the PS caseworker should again present the identified risks to the older adult and explain the reasons protective services being offered. If the older adult continues to refuse, the PS caseworker shall work with the older adult in seeking agreed upon alternative interventions. The PS caseworker shall document the older adult's consent or refusal in the PS electronic care plan journal

The older adult can choose to:

- Accept the service plan;
- Refuse part of the service plan;
- Refuse the entire service plan.

2. Contents of a Service Plan

The PS service plan shall be in writing and include a plan to address all areas of risk identified during the investigation and include areas of unmet need identified during the assessment process. The plan must offer the least restrictive interventions to the older adult and be cooperatively developed by the AAA, the older adult or their appointed guardian and other family members, as appropriate. A guardian can request and consent to protective services on behalf of an older adult.

As required under [§15.93 \(d\)](#), the service plan shall also address, if applicable, special needs of other members of the household unit as they may affect the older adult's need for protective services. The identification of unmet needs of other members of the older adult's household does not obligate the AAA to pay the costs of the services.

i. Consent to Service Plan

Once an older adult consents to the service plan, the plan is implemented. The purpose of the service plan is to outline the risk(s) posed to the older adult and the least restrictive interventions that may reduce or eliminate those risks.

ii. Refusal of Service Plan

[Section 15.81](#) allows the older adult the right to refuse protective services, except as provided under a court order. Services may not be provided to an older adult who does not consent to protective services or withdraws consent, unless the circumstance falls under the consent exemptions provided under [15.91\(d\)](#), *Consent Exemptions*. Additionally, [§15.91\(e\)](#) provides, if a person interferes with the provision of services or interferes with the right of an older adult to consent to the provision of services, the AAA may petition the court for an order of enjoining interference.

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If an older adult refuses the plan, the PS caseworker shall make every attempt to obtain a signed statement that shows that the older adult refused the plan or document the efforts to obtain a signed statement in the protective services care plan journal. The statement and signature are to be placed directly on the written service plan document. The statement must include the recommended services and a statement of refusal. A list of the risks associated with refusing the care plan shall be reviewed with the older adult and placed on the written service plan prior to having the older adult sign the document. A copy of the service plan signed by the older adult or a signed refusal to participate in the service plan shall be kept in the case file.

If the older adult refuses to sign the refusal form, then the PS caseworker shall document the refusal on the service plan and document the refusal in the PS care plan journal. Documentation shall reflect that the older adult was competent to refuse service and understands the consequences of refusing the service(s). This includes a review of cognitive functioning such as information solicited by professionals, such as the older adult's physician.

The risk level and all methods of risk reduction must be documented including, but not limited to whether an emergency involuntary intervention would be appropriate. An emergency order can be filed without the older adult's consent.

PS caseworkers can protect the rights of abused and neglected older adults by not forcing protective services upon an older adult that has refused services. However, they can further protect the AAA and themselves by ensuring that the risks and possible interventions were repeatedly explained to the older adult and that he/she had input into developing the PS service plan. The PS caseworker must explain the risks associated with refusing services to the older adult. Protective services caseworkers must carefully document all efforts to offer services.

3. Substantiated - No need for Protective Services:

If the PS caseworker investigates and determines that the case is substantiated, but no unmet needs were identified upon conducting the assessment (e.g., the risk reduction/elimination was provided by another party prior to protective services getting involved and no other needs are identified), no service plan should be offered. This finding should be documented. The case would be documented as a substantiated case however there is no current need for protective services. Refer to the OAPSA Documentation Procedural Manual for input (Appendix D).

C. DELIVERY OF SERVICES

The AAA shall, with the consent of the older adult, provide for implementation of the course of action recommended in the service plan. The implementation may be provided by any of the means listed below.

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Protective services may not be provided to an older adult who does not consent to services or has withdrawn consent, unless services are ordered by a court or requested by a guardian of the older adult.

If arranging services to comply with service plans, the AAA may disclose to the appropriate service providers information necessary to initiate the delivery of services. The case record shall reflect the delivery of services and any referrals made on behalf of the older adult. Referrals made to another AAA, the specific AAA of the referral and the acceptance of the referral by the AAA must be documented in the case record.

Protective services can be delivered by:

- Direct provision of services by the AAA
- Purchasing services from another AAA or provider
- Referral to another AAA
- Coordinating care provided by family or friends or a combination of these or other methods

There are occasions when there are no scheduled or purchased services put into place for a substantiated protective services case. These types of services are often referred to as “hard services”. Examples include:

- Coordination of community resources
- Assisting with entitlement applications
- Reviewing facility documentation to ensure interventions were put into place to address the identified risks
- Providing education to caregivers (family/informal supports)

The PS caseworker must review the OAPSA Documentation Procedural Manual and SAMS trainings for instruction on how to properly document services in SAMS to accurately report and capture services provided under protective services. See Appendix D.

If part of the agreed upon service plan is to refer a case to law enforcement, all information provided to law enforcement must be copy of the original records and must be accompanied by a cover letter indicating the authority of PS to investigate allegations of elder abuse, a summary of the services plan including sending the case to law enforcement, and what the AAA is asking the police to do with the information provided and contact information of the PS Caseworker and/or PS Supervisor.

Delivery of service for unsubstantiated cases:

There are times when a PS caseworker must implement services in order to determine if the older adult meets the definition of an older adult in need of protective services. The specific services provided during the investigation may be an appropriate expense for the protective services program. This expense may include, but is not limited to:

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- Physician or nurse consultation
- Transportation of the older adult
- Petitioning the court for access to persons/records
- Psychiatric evaluation

[Section 15.112\(3\)](#) provides for the authorization and use of protective services funds for these types of activities.

If any service is provided during the investigative process, excluding a RON and an investigation, the service should be documented as directed in the OAPSA Documentation Procedural Manual.

D. CASE MANAGEMENT

1. Case Management

Case management includes the coordination of sources of services and taking steps to achieve the goals documented in the service plan. This includes establishing and maintaining the case record (see [§§15.101-102](#) and “G. Maintenance of Records” under Section VI. of this policy and procedural document).

The PS caseworker is responsible for coordination of services being provided for the older adult who needs protective services and taking reasonable steps to assure that services necessary to achieve the goals in the service plan are provided. See [§15.95](#). Case management is a process of assessment, planning, facilitation, care coordination, evaluation and advocacy for options and services to achieve the goals of the service plan for the older adult who needs protective services. Additional case management steps include, but not limited to:

- Overseeing the coordination of all services in the plan
- Visiting the older adult at regular intervals to monitor their situation (or a reassessment)
- Completing referrals for service

2. Reassessments

In a substantiated case, a reassessment is provided to review the progress of the agreed upon goals included in the service plan. Face-to-face contact is required for a reassessment because this is the only sure way to assess an older adult’s situation.

There are no situations, other than the death of an older adult; the older adult is no longer in the jurisdiction of PA; no services were implemented; or the withdrawal of consent by the older adult, where it would be acceptable to close a protective services case without completing a reassessment. If an investigation is substantiated, but there is no need for protective services (no service plan was offered), no reassessment is

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necessary since there are no interventions to reassess. Reassessing the older adult prior to termination of the PS case assists the PS caseworker to verify that all identified risk(s) have been reduced or eliminated and that the plan to keep the older adult safe is effective.

Reassessments shall be written in a standardized format established by PDA. PDA requires that reassessments are completed by creating a copy of the original ISA in SAMS. All investigative findings and the original assessment tool shall be completed before creating the new ISA for the purpose of reassessment. The reassessment is completed by opening each section of the assessment tool and writing a note that begins with the date and includes the current information. This is completed for each subsequent reassessment that may occur. When an older adult is reassessed, and the services implemented through the care plan do not prove to be effective, additional or alternative services shall be offered to address the risk that still exists. The PS caseworker will provide for these areas by increasing or decreasing the level of service provided and identifying new areas of need and developing a plan for the newly identified areas. The regulations require that reassessments occur in certain situations and at certain points while protective services are being provided.

If the reassessment is being conducted by another AAA due to the physical location of the older adult, the AAA conducting the reassessment will complete the steps above and document in the electronic case record.

- i. Under [§15.95\(c\)\(2\)](#), Reassessments are required in the following situations for substantiated cases only:
 - if the older adult's condition has changed
 - if the AAA believes a reassessment is needed for any reason.
 - when the case is transferred; or
 - the older adult is being terminated from protective services.

E. RIGHTS OF ALLEGED ABUSERS

1. Perpetrator Rights

When an individual has been designated as a perpetrator as a result of a protective services investigation, he/she must be provided with a written summary of the allegations. The AAA's perpetrator designation letter must provide a brief summary of the allegations of a report. The information provided must provide the perpetrator with enough information so that he/she is aware of the allegations and why they were designated as a perpetrator. This information allows the perpetrator the necessary information to exercise his/her right to challenge the AAA's findings. The perpetrator is never provided a copy of the RON nor the name or identity of the reporter.

It is not necessary that the alleged perpetrator be the same person that the reporter indicated was responsible for the abuse, neglect, exploitation and/or abandonment in the

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RON. Perpetrators discovered through investigation are to be treated the same as those identified in the RON. An older adult who is self-neglecting should never be named a perpetrator. These individuals may simply be doing the best they can however falling short of providing themselves with adequate care/services.

The perpetrator designation letter shall not be provided to the perpetrator's employer, the older adult, or any other individual absent a court order. A copy of the perpetrator designation letter shall be placed in the case record.

- An alleged perpetrator must be notified that allegations have been made against him or her and shall provide the alleged perpetrator a brief summary of the allegations.

An alleged perpetrator must be provided information regarding the appeal process to challenge the AAA's finding resulting from the investigation. Due process entitles a person to be informed of the nature and cause of allegations against them. Failure to include a brief summary denies the alleged perpetrator the necessary information to make a defense:

[Section 10225.308\(b\)](#) provides that such an individual shall be notified by the AAA at the conclusion of the investigation of the report that allegations have been made shall be given a brief summary of the allegation.

[Section 15.82](#) provides that the AAA shall notify the alleged perpetrator at the conclusion of the investigation of the report that allegations have been made and shall provide the alleged perpetrator with a brief summary of the allegations

- An alleged perpetrator must be provided additional information contained in the RON, upon his or her request ([§15.82\(2\)](#)). For clarification, the additional information provided from the report shall only be the allegations against the individual designated as a perpetrator. summary of the information contained in the RON.
- The following shall not be provided to the perpetrator:
 - A copy of the RON.
 - Details contained in the RON that are not about the perpetrator.
 - Confidential information.

A perpetrator designation letter should include the following language:

- "It is our finding that Sam Smith is a care dependent person in need of protective services. We further find that you were the perpetrator of *physical abuse/emotional abuse/financial exploitation, caregiver neglect* of Mr. Smith. A brief summary of the allegation is..."
 - John Doe slapped Mr. Smith on June 1, 2020 while he was laying in the bed.

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- “It is our finding that Sam Smith is a care dependent person in need of protective services. We further find that you were the perpetrator of financial exploitation of Mr. Smith:
 - John Doe sold Mr. Smith’s home without his authorization and used the proceeds for his own benefit rather than to benefit Mr. Smith. John Doe withdrew money from Mr. Smith’s bank account without his permission and/or authorization.

Perpetrator notification is provided:

- After services have been provided to reduce or eliminate the risk,
- In writing, and
- At the conclusion of the investigation of the report.

The AAA does not have authority to provide a copy of the perpetrator notification to anyone other than the perpetrator. The exception to this is when the AAA reasonably believes specific case facts indicate intentionally, knowingly, or recklessly endangering the welfare of a care dependent person for whom the perpetrator was responsible by failing to provide treatment, care, goods, or services necessary to preserve the health, safety or welfare of the care-dependent person. In this situation, the case must be referred to local law enforcement and/or the Attorney General and may include the perpetrator notification. The AAA must inform PDA the case has been referred to law enforcement and/or the Attorney General.

If at any point an individual is referred to as a perpetrator, that individual has a legal right to file an appeal with the Department to challenge the AAA’s findings. Refer to [§15.82](#). The following examples would require a perpetrator designation:

1. Documentation in the care plan journals, perpetrator characteristics in the ISA and anywhere else in the record that a perpetrator was identified
2. Referring a perpetrator to law enforcement
3. Mailing a perpetrator notification letter
4. Referring the perpetrator to a regulatory authority

No perpetrator designation:

If an individual is identified, through clear and convincing evidence, as committing abuse, neglect, exploitation and/or abandonment, however, will not be notified of the perpetrator designation, the individual shall not be referred to as a perpetrator in the protective services case record, including care plan journals and perpetrator characteristics in the ISA. The reasons an individual shall not be named a perpetrator include:

1. When the case is unsubstantiated.
2. When the AAA truly believes and has reason to believe that the action may imminent risk to the older adult.

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3. The AAA has been unable to successfully interview the alleged perpetrator has not been interviewed or notified despite their best efforts.
4. If an individual attempting to help an older adult falls short meeting all of the older adult's needs due to human frailty, lack of knowledge, error in judgement or uncontrollable events, it would be appropriate for the individual to receive AAA services, including training, rather than naming them a perpetrator.
5. When an older adult refuses service. It is simply for the protection of the older adult that the notification is not to occur when an older adult refuses all services as no remedy has been achieved.
6. The older adult is found to be self-neglecting.

2. Perpetrator is a juvenile

When an alleged perpetrator is a minor (under the age of 18), the AAA's initial steps must be to contact the parents or legal guardian(s) of the juvenile. The AAA must obtain written consent from the parent or legal guardian to interview the minor. If consent is refused or unable to be obtained, the AAA may not interview the minor. The AAA should consult their AAA solicitor.

When a juvenile is designated as a perpetrator, the designation notice and/or other information must be mailed to the parents or legal guardian of the juvenile. In Pennsylvania the juvenile court has jurisdiction over offenses alleged to have been committed prior to a child's 18th birthday; after age 18, the youth is charged in adult court. [42 Stat. and Cons. Stat. Ann. § 6302](#). Pennsylvania provides counsel to indigent youth through county public defenders. Each county except Philadelphia is statutorily required to appoint a public defender. In Philadelphia, a private attorney may be court appointed to represent a juvenile in a criminal matter. In Pennsylvania, youth in juvenile court have the right to counsel at all stages of any proceedings and are presumed indigent. 42 Pa. Stat. and Cons. Stat. Ann. [§§6337](#); [6337.1\(b\)\(1\)](#).

3. Naming a facility as a perpetrator

If the AAA finds that the facility or Nursing Home Administrator provided inadequate training, supervision, monitoring or general administrative oversight of quality of care, which resulted in harm to the older adult, then the facility can be named as a perpetrator. The facility is contractually responsible for the provision of professional care and services to meet the older adult's health and safety needs. The failure to do so meets the definition of neglect. It is not necessary to show that the faculty intended to do harm, just that harm was done as a result of inadequate oversight of its staff and overall quality of care, and that the facility knew or reasonably should have known this. For example, if a nurse ignores physician orders or perpetrates abuse of an older adult, the staff member should be named as the perpetrator instead of the facility.

The AAA should consider the oversight and supervision of staff prior to determining that the facility itself should be named a perpetrator. If for example, the facility did not adequately train and supervise staff, doctor orders are not in the chart, policy is

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inadequate or absent, and regular quality of care monitoring is not found to be the standard operating procedure, the PS caseworker has enough supporting evidence that the facility has not done what was reasonably expected to be done and should be named as the perpetrator.

4. Perpetrator Characteristics and Data Collection:

See Appendix D for specific detail on data collection.

Perpetrator information is not redacted from the case record for substantiated cases. If an investigation is substantiated, however, a perpetrator is not being designated, perpetrator characteristics may not be recorded in the Perpetrator section of the ISA. Any characteristics documented prior to the decision to not name a perpetrator must be redacted.

If a case is unsubstantiated, the alleged perpetrator information must be redacted from the case record (including RON, ISA, and Care Plan Journal entries) and no perpetrator characteristics shall be documented in the Perpetrator section of the ISA. Reporter information is not redacted from an unsubstantiated case.

5. Appeal Process

An individual designated as a perpetrator is entitled to file an appeal with PDA to challenge the AAA's investigative findings. This appeal process is provided to the perpetrator in the body of the perpetrator designation letter. The purpose of an appeal is to challenge the perpetrator designation. The appeal process is provided under 6 Pa Code Chapter 3 (relating to fair hearings and appeals) applies to perpetrators appealing the designation.

The perpetrator must be notified in writing that an appeal of this designation shall be in writing to the Secretary of Aging and must be postmarked within thirty (30) calendar days of the notification by the AAA. Once an appeal request is received by PDA, it shall be resolved within thirty (30) calendar days. The informal appeal process is handled by the Protective Services Office which will schedule an informal appeal call with the perpetrator and their attorney, if applicable.

After the informal appeal call, PDA will issue a letter to the AAA and the perpetrator recommending a resolution. The recommended resolution letter must include the appeal right and the steps necessary to file an appeal. Either party has the right to appeal the recommended resolution by sending a letter in writing to the Secretary of Aging requesting a formal hearing with the Bureau of Hearing and Appeals (BHA). The appeal must be received in writing within thirty (30) calendar days of PDA's recommended resolution letter. Once the BHA hearing is held, PDA will be provided with BHA's decision on the case. Either party has the right to appeal BHA's decision to the Commonwealth Court of Pennsylvania, where the case will become part of the public record.

F. CASE CLOSURE

1. Termination of Protective Services

An older adult shall remain as an older adult in need of protective services as long as they meet the definition of an older adult in need of protective services described under [§15.2](#). The case shall be active until it is certain that the imminent risk has been reduced/eliminated and the older adult or their situation is stable. Analysis of whether the interventions put into place have reduced or eliminated the identified risk(s) posed to the older adult must be conducted prior to termination.

Protective services are only terminated in circumstances where:

- The risk has been eliminated.
- The risk has been reduced and the older adult is considered capable of managing the remaining risk.
- The older adult withdraws previously given consent for the participation in the service plan. The protective services caseworker must review the risk with the older adult and obtain a statement of their understanding of the risk. If the older adult refuses to sign the statement, then the protective services caseworker should document the refusal on the statement or service plan and document the refusal in the protective services care plan journal.
- The older adult is deceased.
- The older adult is no longer within the jurisdiction of Pennsylvania.

In accordance with [§15.96](#), when protective services are terminated, the final disposition of the case must be one of the following:

- By closing the case when no further service intervention is required. Documentation in the case record must reflect that the risk was reduced or eliminated and there is no further need for protective services.
- An involuntary intervention, or other court order, was obtained and it has expired, and the older adult does not consent to further service intervention, and the older adult is capable of managing the remaining risk.
- By transferring the older adult to the service management system of the AAA.
- By transferring the older adult to another appropriate AAA.

When protective services are terminated, the PS caseworker must inform the older adult or identified responsible caretaker (guardian, POA, etc.) of the pending termination of protective services and secure a signed statement from the older adult or identified responsible caretaker (guardian, POA, etc.). If an individual, facility or any other person or entity, identified responsible caretaker (guardian, POA, etc.), is involved when protective services are terminated, and they were part of the protective service plan, then they must also be notified of the termination of protective services. A copy or original signed termination notice shall be attached to the electronic case file. The older adult or appropriate individuals must be given the right to participate in this decision and be provided the right to

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appeal if they disagree. The involvement of the older adult, significant others and the protective services caseworker shall be clearly documented.

If the AAA is unable to use written notification due to inability to reach or locate the older adult or identified responsible caretaker (guardian, POA, etc.), all efforts to notify the older adult and attempt to obtain written acknowledgement must be documented in the case narrative section of the case file.

Follow the steps for terminating a case as it relates to the regulations and this chapter. Refer to the OAPSA Documentation Procedural Manual in Appendix D for steps on terminating a case in SAMS.

2. Protective Services Cases that require ongoing services

The PS caseworker must continually assess whether the older adult still meets the criteria for protective services. Once the older adult no longer meets the criteria for protective services, the case shall be terminated. Once the risk has been mitigated or eliminated, an assessment of ongoing service need must be completed because the level and number of services provided under PS may not be needed or available in another care program. An assessment of the older adult's needs at that time must be completed in accordance with the requirements of that care program.

Consideration should be given to ensure the timely and efficient implementation and delivery of service. If the older adult requires ongoing services through care management, information shall only be disclosed as outlined under [§15.105](#).

Follow the steps for terminating a case as it relates to the regulations and this chapter. Refer to the OAPSA Documentation Procedural Manual in Appendix D for steps on terminating a case in SAMS.

3. Termination of PS after Guardian appointed

When a Guardianship petition has been filed, the case should continue to be active under the protective services care program until a permanent guardian has been appointed by the court, the guardian has enough information to begin serving the older adult, and the older adult is no longer at risk. While awaiting the permanent guardianship hearing, there is no specific legal requirement regarding the number or type of visits the PS caseworker must make to the incapacitated person. The AAA shall terminate protective services when the older adult is no longer "an older adult in need of protective services."

The PS caseworker must maintain *regular* contact with the older adult. This contact shall occur at least twice each month to observe the older adult for any new concerns, behaviors or needs. Contact must include either a telephone call or FTF visit to the older

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adult or their responsible party. All contact must be documented within the record. Protective Services staff are expected to know the needs of the incapacitated person as well as the incapacitated person's health and emotional state for making informed decisions.

The protective services care program may not be terminated solely on the basis that an emergency, temporary or permanent guardian has been appointed. When the older adult no longer fits the definition of an older adult in need of protective services, the case should be terminated from the protective services caseload.

The older adult should be reassessed after the permanent guardian is appointed to assure that all necessary services are being provided. The PS caseworker should take reasonable steps to assist the guardian in this transition period prior to terminating protective services. Part of the resolution in a protective services case is to ensure that the guardian is aware of the older adult's medical and social strengths and needs, and the older adult's financial status.

The PS caseworker must review and discuss the needs/services with the older adult and guardian before protective services can be terminated. A reassessment form should be completed, and the activity should be documented in the protective services care plan. At that time, the protective services care program should be terminated.

The permanent guardian should be provided the protective services termination letter. Follow the steps for terminating a case as it relates to the regulations and this chapter. Refer to the OAPSA Documentation Procedural Manual in Appendix D for steps on terminating a case in SAMS.

4. Transferring out of county

As soon as it is known that the older adult has moved to another county, the protective services caseworker shall contact the AAA in that area and coordinate protective services involvement. If the move is found to be permanent, the AAA where the older adult now resides should assume full responsibility of the case. If there are incomplete protective services activities in the original county, the original AAA should remain involved to complete those activities and assist where necessary. A formal transfer of the case, from the initial AAA to the second AAA, should be documented in the case file. When this occurs, all information obtained by the original AAA is to be provided to the county where the older adult has moved. The case record must reflect the transfer of the older adult to another AAA. Follow the steps for terminating a case as it relates to the regulations and this chapter. Refer to the OAPSA Documentation Procedural Manual in Appendix D for steps on transferring a case in SAMS.

5. Transferring out of state

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As soon as it is known that the older adult has moved to another state, the PS caseworker shall contact the local protective services AAA of that state and coordinate protective services involvement. If the move is found to be permanent, the protective service AAA in the other state will assume full responsibility with the PA AAA providing assistance as required. A transfer of the case should be clearly documented. When this occurs, PDA requires that the AAA transfer information generated from its investigation (e.g., information documented in the case record). Documents obtained from other agencies (e.g., medical reports from hospitals) cannot be transferred unless specifically authorized by the older adult in a specifically stated release of information. The AAA can also indicate where to obtain pertinent information. Follow the steps for terminating a case as it relates to the regulations and this chapter. Refer to the OAPSA Documentation Procedural Manual in Appendix D for steps on terminating a case in SAMS.

6. Death of older adult

Under [§15.46](#), if the death of an older adult reported to be in need of protective services occurs:

- prior to the AAA's investigation of the report
- during the investigation or
- any time prior to the closure of the protective services case,

and there is a nexus between older adult's death and the need for protective services, the death shall be immediately reported to the police and the county coroner as provided in [§15.46\(g\)](#) before terminating the case.

If there is no nexus between the older adult's death and the need for protective services, the case shall be terminated. Follow the steps for terminating a case as it relates to the regulations and this chapter. Refer to the OAPSA Documentation Procedural Manual in Appendix D for steps on terminating a case in SAMS.

G. MAINTENANCE OF RECORDS

Protective services case records must be kept in a locked file separate from all other records. The records must be maintained in a secure location and their removal from and return to the secure location must be tracked according to procedures documented in the AAA's approved protective services annual plan. Confidentiality, tracking and storage of records is required by regulations ([§15.101-15.105](#)) therefore protective service staff shall not store protective services case files in their private desk or other private storage areas.

As required by [§15.12\(b\)\(6\)](#), under the protective service plan provision, the AAA must have a plan to assure the privacy and confidentiality of older adults receiving protective services. The AAA procedures are outlined in the AAA protective service plan. The AAA must train staff on the procedures.

1. Deletions in the Case Record

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When investigations are unsubstantiated, all information identifying the reporter and the alleged perpetrator shall be *immediately* deleted from all records. Journal notes shall not include any information that identifies the reporter or alleged perpetrator. This includes their name, pronouns (he, she, him her), and relationships (wife, husband, son, daughter, etc.)

All records gathered during the investigation and contain information identifying the reporter, or the alleged perpetrator should also be redacted from the case record. This could include bank records, witness statements, facility records, power of attorney or other legal documents etc.

Unsubstantiated and No Need Reports:

- Case records (both physical and electronic) categorized as Unsubstantiated or No Need shall be purged and destroyed after 6 months from the date the report is unsubstantiated and closed or determined to be a No Need. However, please refer to the following exceptions:

Additional report(s) received within the 6-month retention period will change the date of when the previous case records can be purged and destroyed:

- A New RON categorized as a No Need is Received: The new RON and previously Unsubstantiated case record and/or No Need RON will be retained for 6 months after the date the new report was No Needed.
- A New RON determined to be Unsubstantiated is Received: The new unsubstantiated case record and previous Unsubstantiated case record and/or No Need report will be retained for 6 months after the new Unsubstantiated case was closed.
- A New RON determined to be Substantiated is Received: The new Substantiated case record and previous Unsubstantiated case record and/or No Needed report will be retained for 3 years after the new Substantiated case was closed.

The above process continues until no additional reports are received during the retention period of the last received report.

Substantiated:

- Case records designated as Substantiated shall be purged and destroyed after 3 years from the date of case closure per PDA Aging Program Directive (APD) #97-29-01: Retention of Area Agency on Aging Records ([Click here to access the APD on PDA's Website](#)). However, please refer to the following exceptions:

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- A New Unsubstantiated or No Need Report is Received: The new Unsubstantiated case record and/or No Need report will be purged and destroyed 6 months after the case was closed or the report was No Needed if no subsequent Substantiated reports are received within the 6-month retention period. The Substantiated report is **not** destroyed with the new Unsubstantiated case record and/or No Need report.
- A New Substantiated Report is Received: The new Substantiated case record and previous Substantiated case record will be retained for 3 years after the new Substantiated case was closed.

See OAPSA Documentation Procedural Manual in Appendix D for more information on deleting electronic records.

H. CONFIDENTIALITY

All PS caseworkers must sign a confidentiality statement agreeing to adhere to the confidentiality requirements set forth in OAPSA and the related regulations. An updated confidentiality statement provided by PDA shall be signed annually for all staff handling confidential protective services records. When handling an investigation, the AAA shall discreetly notify an older adult during the investigation that a RON for protective services has been made and shall provide the older adult with a brief summary of the report. The older adult has the right to confidentiality of information received and maintained by the AAA in reports, investigations, service plans and other elements of the case record.

All contents of the case record are considered confidential. The PS caseworker must assure that care must be taken to protect not only the identity of the reporter and any information, but also any identifying information regarding the individuals that cooperated with the investigation.

When a subpoena for information in a protective services case record is received by the AAA, the solicitor should deny the request based on the following: [§15.105\(1\)](#), which states that a case record may only be released to the court of competent jurisdiction or pursuant to a court order and [§10225.306](#) confidentiality of records. The AAA shall disclose case record information for in-camera (in the judge's chambers) review. The purpose of these restrictions is to assure that judicial review and/or hearing takes place before a decision is made to share information with defense counsel or others.

See Appendix B for confidentiality requirements.

VII. DOCUMENTATION STANDARDS AND TIMEFRAMES

As directed in [§15.42\(c\)](#), all actions and activities completed and attempted while investigating a RON, and while providing protective services, must have supporting documentation in the case file, including journal notes for all case activities. Completing journal notes, securing supporting documentation, and completing all

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required electronic forms is required for multiple purposes including justifying all actions or inaction, meeting regulatory standards and professional standards, completing thorough investigations, preparing for any court action, and collecting data that is required for federal reporting. See definition for “case file, case record or record” under [§15.2](#) for required documentation. All supporting documents gathered during the investigation shall be maintained according to [§15.102](#).

As with all documentation completed in the course of conducting PS responsibilities, it is expected that statements entered into the any electronic reporting database being used by the Department are truthful. It is important to note any information submitted into the electronic database being used by the Department with the intent to mislead a public servant in the commission of their duties may be considered a falsification.

All PS caseworkers are required to follow the guidelines below to ensure timely documentation of case and program activity. If the AAA develops an extensive backlog of old cases that are still active in SAMS, the AAA shall notify their AAA’s assigned PS Specialist(s) and develop and submit a plan for resolution.

All documentation must be completed in the electronic case record (SAMS) within the timeframes provided.

Any case documentation that does not fall under any of the types of cases/case record entries provided must be completed within ten (10) calendar days from the date of the activity. All journal entries shall be signed and dated by the person who conducted the activity. If someone other than the person who conducted the activity enters the case note(s), indication of who entered the note and who conducted the activity shall be added to the journal entry. The date that the case note was entered shall also be added to the journal entry. Refer to Appendix D for details on entering information into the electronic case record.

Documentation Timeframe Directive:

Type of Case/Case Record Entry: Emergency cases or situations, media involvement or potential and/or legislative inquires

Documentation Guideline: As soon as possible, but **no later than 24 hours**, after date activity was completed. *

Additional Information: Because of the serious nature of these cases, Supervisory guidance/instructions for next steps must be documented **no later than 24 hours** after the activity was completed. This includes but is not limited to: inquiries by legislators or cases covered by media.

Type of Case/Case Record Entry: Priority cases, significant changes and/or high-profile cases

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Documentation Guideline: As soon as possible, but **no later than 3 calendar days**, after date activity was completed. High profile cases may involve media, well known persons in the community, those resulting in serious injuries or death, legislative involvement, or multiple older adults.

Additional Information: Because of the serious nature of these cases, Supervisory guidance/ instructions for next steps must be documented **no later than 3 calendar days** after the activity was completed. This includes but is not limited to: cases involving serious bodily or serious physical injuries, litigation, or death(s) as well as significant changes effecting health and welfare of older adult.

Type of Case/Case Record Entry: Priority cases, significant changes and/or high-profile cases

Documentation Guideline: As soon as possible, but **no later than 3 calendar days**, after date activity was completed. High profile cases may involve media, well known persons in the community, those resulting in serious injuries or death, legislative involvement, or multiple older adults.

Additional Information: Because of the serious nature of these cases, Supervisory guidance/ instructions for next steps must be documented **no later than 3 calendar days** after the activity was completed. This includes but is not limited to: cases involving serious bodily or serious physical injuries, litigation, or death(s) as well as significant changes effecting health and welfare of older adult.

Type of Case/Case Record Entry: Non-priority cases including routine case activities and findings

Documentation Guideline: As soon as possible, but **no later than 5 calendar days**, after date completed.

Additional Information: Includes but not limited to: any actions, contacts, telephone calls, inquiries or reviews.

Type of Case/Case Record Entry: Ongoing supervisory consultations or directives

Documentation Guideline: As soon as possible, but **no later than 5 calendar days** after activity was completed.

Additional Information: Supervisory reviews, which include guidance and instructions for next steps, are to occur throughout each investigation and are to be documented as journal entries by either the supervisor or the protective services caseworker.

Type of Case/Case Record Entry: Supervisory review following case closure

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Documentation Guideline: No later than **10 business days** after case closure.

Additional Information: The final review is to document that the supervisor confirms a comprehensive investigation was conducted, risk to the older adult was or was not identified, and that protective or referral services have been offered to the older adult when appropriate. Case review shall also ensure perpetrator notification was completed accurately and the service plan was documented to capture what services, referrals, or interventions have been instituted to reduce and/or eliminate risk. The supervisor shall additionally ensure that all areas of abuse were explored and accurate dates for initiation, determination and case closure were accurately documented.

*The PS Supervisor, AAA Director and the AAA's assigned PS Specialist(s) must be notified of all high-profile or anticipated/known media case(s) as soon as possible. If the AAA's assigned PS Specialist(s) are not available by phone, an email shall be sent to the appropriate zone email address:

- Zone 1: PSZone1Specialists@pa.gov
- Zone 2: PSZone2Specialists@pa.gov
- Zone 3: PSZone3Specialists@pa.gov

VIII. TRAINING REQUIREMENTS

A. INTAKE

In accordance with [§15.124](#): “the protective services intake training curriculum shall consist of training, including the following topics: Interviewing the reporter; Completion of the report form; Preliminary case status assessment to determine report categories; Requirements for referral of the report to the protective services staff; Emergency Procedures; Confidentiality.” Staff who have successfully completed the on-line intake worker training are able to receive and document RON. The intake worker shall be able to conduct their primary responsibility which is to assess all calls in a way which enables them to identify risk and determine if any call should be referred to PS as a RON.

B. PROTECTIVE SERVICES CASEWORKER (INCLUDING BACK-UP/ON-CALL STAFF, SUPERVISORS, NURSES PROVIDING CONSULTATION FOR PS CASES AND DIRECTORS DIRECTLY OVERSEEING PROTECTIVE SERVICES DUTIES)

Under [§15.2](#), a PS caseworker is defined as an AAA employee, regardless of staff title, who meets the minimum protective services staff qualifications ([§§15.121-15.127](#)) and is assigned by the AAA to perform protective service functions. PS caseworkers and supervisors must complete training containing the curriculum as described in [§§15.121-15.127](#).

These training requirements also apply to any AAA director that directly oversees protective services duties (e.g. signing off on forms, reviewing cases, providing case consultation, and directing PS caseworkers).

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PDA will provide for the development and implementation of the training curriculum. Training will be conducted on a timely and recurring basis with adherence to [§15.125](#) and must be followed by the agencies.

C. ANNUAL IN-SERVICE TRAININGS

In addition to the required training set forth in [§§15.122](#) and [15.123](#) (relating to PS casework training curriculum and protective services investigation training curriculum), [§15.127\(a\)](#), states “protective services supervisors and protective services caseworkers shall participate in in-service training in protective services as required by the Department.” This annual training begins with the calendar year following completion of the required Basic PS Training. [Section 15.127\(b\)](#) states that the annual in-service training shall consist of a minimum of 1 day of training. As stated in [§15.121\(c\)\(3\)](#), “Staff persons designated to receive reports of older adults who need protective services shall complete the curriculum under [§15.124](#).”

An annual in-service training is required beginning with the calendar year following completion of the required Basic PS Training curriculum and annually thereafter. PS staff must complete a minimum of one day (or equivalent to 6-8 hours), or as required by PDA, of in-service training per calendar year. This requirement is for all PS caseworkers (full or part time), back-up or on-call PS caseworkers, supervisors, nurses providing consultation for PS cases and directors directly overseeing PS duties.

If an AAA would like to utilize an outside training opportunity as annual enrichment for staff, the PS Supervisor must submit to their assigned PDA PS Specialist(s) for review and approval. The request is to be in writing (email) and contain the following information at least one (1) week prior to attending the training:

- The name of individual or organization providing the training
- The date and start and end times of the training
- A summary of the training content or a copy of the planned agenda
- Why the staff cannot attend or has not attended the enrichment training opportunities provided by PDA via Temple University
- A description of why the training is appropriate for PS staff.

Participation in outside educational opportunities does not preclude an individual from also participating in annual in-service training opportunities provided through PDA or Temple University. Every effort should be made to attend training opportunities provided by PDA.

D. ADDITIONAL TRAINING REQUIREMENTS:

In order to further enhance training and provide support to the PS network, PDA, has developed and implemented two additional mandatory trainings:

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- Five (5) year refresher course: Required for every protective services caseworker, back-up worker, supervisor, nurse providing consultation for PS cases and director that directly oversees PS duties (i.e. signing off on PS forms, reviewing PS cases, providing PS case consultation, directing protective services caseworkers) every five (5) years following completion of Basic PS Training. This training is in addition to the one day (or equivalent to 6 hours) annual in-service of training.
- Monthly PS Supervisory Webinars: Representation is required from every AAA. If there is a legitimate reason why a AAA cannot participate in the monthly webinar, the AAA will contact the AAA's assigned PS Specialist to provide rationale and submit proof of completion within ten (10) business days.

E. TRAINING RECORDS

Training records for protective services staff must be kept up to date and will be reviewed during quality assurance monitoring visits to verify that annual in-service training and additional mandatory training requirements are met by PS staff. Staff records shall include certificates showing the training that the staff person attended. If multiple trainings are attended to meet the 6-hour minimum requirement, or as required by PDA, personnel records should indicate the title of the training (content), date, duration, and location of each training.

IX. QUALITY ASSURANCE PROTOCOL

PDA conducts quality assurance (QA) monitoring of each AAA. The PS Office staff conducts an official QA review of each AAA's PS program by pulling a random sample of PS cases for review. The reviews are conducted annually, bi-annually, or as warranted from reports from other sources or outcomes of prior QA monitoring. In addition, PDA may also review specific cases as a result of a complaint being received. These cases may include substantiated, unsubstantiated, active, and/or no-need cases.

Scenarios that may trigger quality assurance monitoring or a complete inquiry or investigation of the handling of protective services case record(s) include, but are not limited to, an annual or bi-annual (scheduled) monitoring visit, prior monitoring findings, a legislative inquiry, a complaint being received, an appeal being filed, caseloads over thirty, abuse and neglect cases not determined (completed) within twenty (20) calendar days, etc.

If the steps described above have been exhausted and persistent serious quality issues continue, PDA will pursue all available options, which may include a full review of the AAA's allocation of funds and/or alternative entities to provide protective services in accordance with the OAPSA ([35 P.S. §§10225.101, et seq.](#)) and the implementing regulations ([6 Pa. Code Chapter 15](#)) (See the Cooperative Agreement.)

X. Implementation Date:

Chapter VII. Protective Services

Chapter will be fully effective six (6) months from date of issuance. Monitoring for compliance with this Chapter will be initiated July 1, 2022.

XI. CHAPTER APPENDICES

- Appendix A.1. • 35 P.S. 10225.101 et seq
- Appendix A.2. • Pa Code Title 6, Chapter 15
- Appendix B.1. • Guidance for Designating a Report as No Need
- Appendix B.2. • Release of Information
- Appendix B.3. • Email Correspondence and Personal Identifiable Information
- Appendix C.1. • AAA Notification Requirements for Facility Reports
- Appendix C.2. • State-operated mental health and ID facilities
- Appendix C.3. • AAA Notification Requirements for Under 60 Reports of Need
- Appendix C.4. • APS Report of Need Referral and Payment Process
- Appendix C.5. • Event Reporting System- DOH Notification Requirements
- Appendix C.6. • Instructions for Registering for Training-Submitting RON
- Appendix C.7. • Event Reporting System Manual AAA RONs
- Appendix C.8. • 2019 Mandatory Abuse Reporting Flow Chart
- Appendix D.1. • SAMS Data Entry Requirements
- Appendix D.2. • A&D OAPSA Documentation Procedural Manual
- Appendix E.1. • Facilities Mandated to Report Abuse
- Appendix E.2. • General Reporting Provisions- Voluntary vs Mandatory
- Appendix E.3. • Mandated Reports- Reporting Requirements and Restrictions on Employees
- Appendix E.4. • Facility Abuse Definitions
- Appendix E.5. • Mandatory Abuse Reporting Packet
- Appendix E.6. • OAPS and LTC Ombudsman Discussion
- Appendix E.7. • OAPS Process for CHC
- Appendix E.8. • OAPSA MCO Client Info Request Form
- Appendix E.9. • OAPSA Service Plan for PS and Informed Consent
- Appendix E.10. • Resolution Process for PS
- Appendix E.11. • OAPSA Final Disposition MCO Notification Form
- Appendix F.1. • PS to Waiver Crosswalk
- Appendix G.1. • Act 53 Amending Title 18 - Neglect & Abuse of Care-Dependent Person
- Appendix G.2. • OAG Referral Form
- Appendix G.3. • OAG Referral Flowchart
- Appendix G.4. • Act 53 FAQs
- Appendix G.5. • Webinar 2713 revisions and new crime 2713.1 (Updated June 2019)
- Appendix G.6. • Sexual Assault Laws
- Appendix G.7. • Chapter 275. Appeal & Fair Hearing & Administrative Disqualification Hearings
- Appendix G.8. • EVS Information
- Appendix G.9. • EVS TIP Sheet #11
- Appendix H.1. • Revision History

Chapter VII. Protective Services