

# DCF LEGISLATIVE TESTIMONY



*November 10, 2021*

## **TESTIMONY OF**

Chrisy Khatib, Regional Director  
Department for Children and Families

## **TESTIMONY ON**

Adult Protective Services

### **Chair**

Representative Concannon

### **Vice Chair**

Senator Hilderbrand

## Introduction

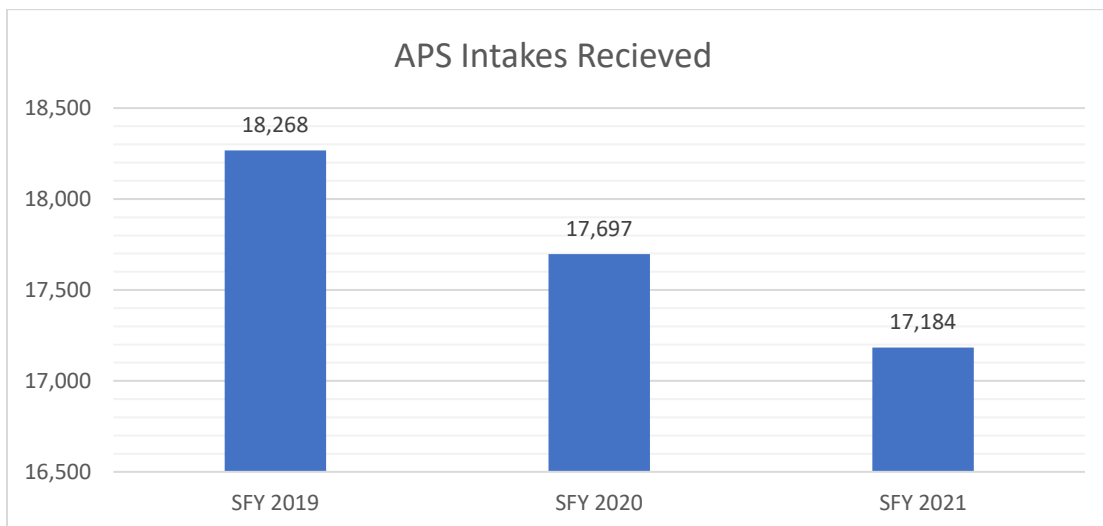
Chair Concannon, Vice Chair Hilderbrand, and members of the Task Force, thank you all for allowing me the opportunity to provide information about Adult Protective Services.

## Statutory Responsibility

Per KSA 39-1430 DCF has the statutory responsibility to conduct investigations of adult abuse, neglect, financial exploitation; complete evaluations for the need of services; assist in obtaining appropriate social services; and assist in securing medical and legal services for adults who are in need of services to prevent or end abuse, neglect, or financial exploitation. Unlike Child Protective Services, APS has no federal funding or oversight. Each state is responsible for the operations of their APS program. Kansas APS policies and practices align with the National Adult Protective Services Administration minimum requirements.

There are four state entities who investigate allegations of abuse: DCF, KDADS, KDHE and the Attorney General's Office. DCF investigates allegations of abuse, neglect and financial exploitation that occurs when the adult is living in the community or if they reside in a long-term care facility or group home and the alleged perpetrator is someone other than another resident or staff member, such as a family member. DCF maintains an Adult Protective Services Registry for individuals who have been substantiated of committing abuse, neglect, and/or financial exploitation. Perpetrators remain on this registry indefinitely or until they have their names expunged. Potential employers can have their employee's names checked to see if they are on the registry.

Per KSA 39-1431 when certain persons have reason to suspect abuse, neglect, financial exploitation of a mentally ill person, incapacitated or dependent person the person shall report to either DCF or law enforcement. Mandated reporters include but are not limited to medical professionals, individuals licensed by the behavioral sciences regulatory board, bank trust officers, owners and operators of residential care facilities, home health agencies and others. The names of the persons who report suspected abuse, neglect or financial exploitation are confidential and cannot be released by DCF without the written consent of the person making the report or a judicial proceeding result (K.S.A. 39-1434).



## Intake & Investigation

Cases are assigned under any of the four allegation types, abuse, neglect, financial exploitation and self-neglect (KSA 39-1430). Protection Specialists will make two unannounced face to face visits when attempting to make contact with the involved adult. Upon contact the Protection Specialist will complete a functional assessment and assess both cognitive and mental health status. The Protection Specialist will review the allegations with the involved adult, complete collateral interviews and request records to assist in determining the validity of the concerns. The Protection Specialist will meet with the alleged perpetrator and review the allegations regarding the incident. Once the Protection Specialist collects the needed information the case will be staffed with a supervisor to determine a case finding. Case findings are required within 30 business days for all cases except financial exploitation which is 60 days. Clear and convincing evidence is the burden of proof required for substantiated findings.

House Bill 2150 provided for the modernization of the APS statutes. Along with collapsing the allegations of fiduciary abuse and exploitation into financial exploitation, the bill provided an additional 30 days to complete a case finding for financial exploitation cases. The supplemental time allows Protection Specialists to collect the needed documents, analyze banking records and make strong case findings.

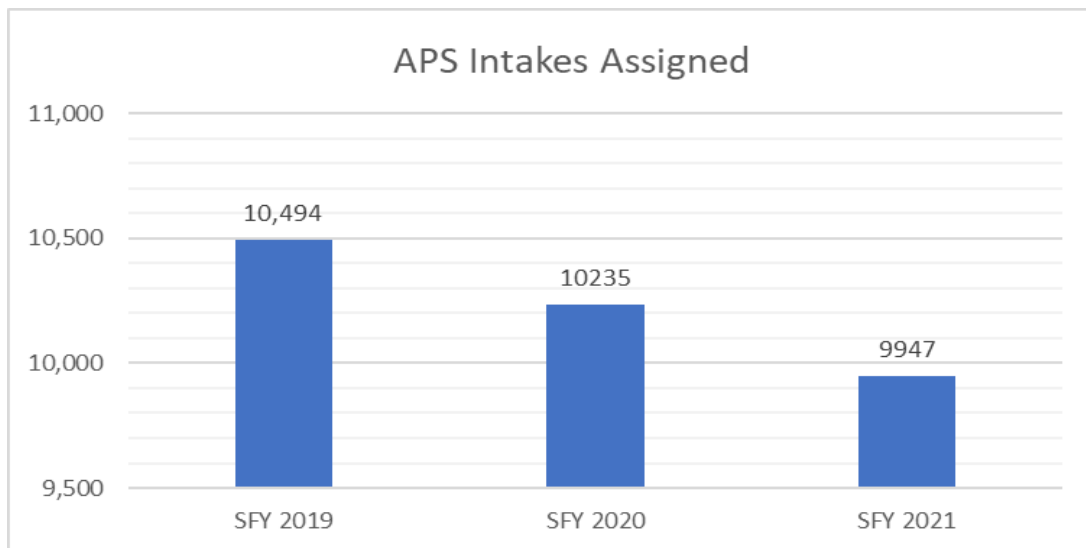
### Intake and Investigation Process

1. A report is received from a mandated or voluntary reporter.
2. The report is screened to determine if it meets the statutory criteria. The reporter may request a notice of action from the protection reporting center indicating whether the report was screened in for assignment.
3. An intake may be placed on a preliminary inquiry to gather additional data from the reporter.
4. If the report is screened in, a time frame (24 hrs., 3 days or 5 days) is assigned for the initial visit. This relates to the first face to face contact with the involved adult. The involved adult, if they have capacity, has the right to refuse to be interviewed.
5. The alleged perpetrator is interviewed, unless doing so places the adult at further risk.
6. Collateral sources may also be contacted (relatives, neighbors, providers, etc.).
7. If the report is screened in, the investigation must be completed and a finding made within 30 working days of receiving the report, unless there is a concurrent law enforcement investigation. Financial Exploitation cases must be completed within 60 working days.
8. The case decision/finding may be “substantiated” or “unsubstantiated”. The standard applied to all case decisions/findings is clear and convincing evidence.
9. The involved adult, their guardian (if applicable), and the alleged perpetrator are notified of the decision. The alleged perpetrator is always notified of the decision in writing. The finding along with information on due process and right to appeal is provided in the finding letter.
10. When all the criteria for due process is completed and the agency finding of substantiated has been upheld, the perpetrator’s name is placed on the APS Central Registry.
11. The Protection Specialist will assist the involved adult in locating services which are necessary to maintain physical or mental health, such as appropriate or alternative living arrangements, medical care, legal assistance, etc. No services are imposed upon an adult who has capacity and refused to accept assistance.
12. Services provided will include only those determined to be needed to protect the adult in the least restrictive manner.
13. Involuntary interventions (such as guardian and/or conservator) are initiated only if the adult lacks capacity and is unable of protecting him/herself due to major mental and physical disability and there are no other options.
14. Advocacy is provided to assure protection of personal rights.

In cases involving potential crimes, local law enforcement and the attorney general’s office are notified. Local law enforcement will make decisions about conducting a joint investigation. The expertise of law enforcement officers is very helpful, as they approach the case from a criminal perspective. Other official notifications include the Medicaid Fraud Unit based in the Attorney General’s Office for Medicaid related cases, KDADS for adults receiving waiver services or living in a nursing facility, and KDHE when the alleged perpetrator works at one of their licensed programs such as a home health agency, hospice etc.

Ultimately the role of the Protection Specialist is to provide advocacy to ensure the protection of personal rights, make referrals for services to those determined to be necessary to protect the adult in the least restrictive manner and at times involuntary intervention will be initiated only after all other options have been pursued and the involved adult has been determined to lack capacity. If it determined the adult lacks capacity, the Protection Specialist will work with a family member to obtain guardianship. If the involved adult does not have a family member DCF will then work with the Kansas Guardianship Program.

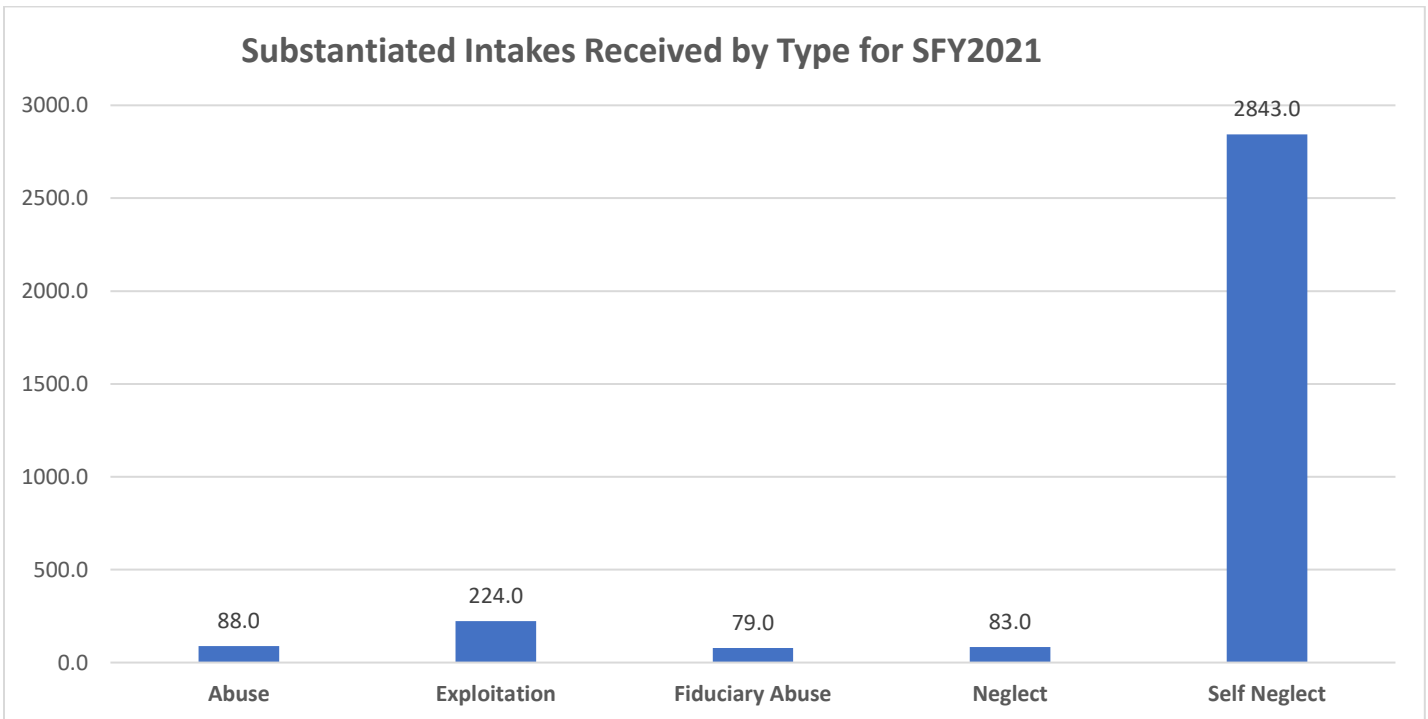
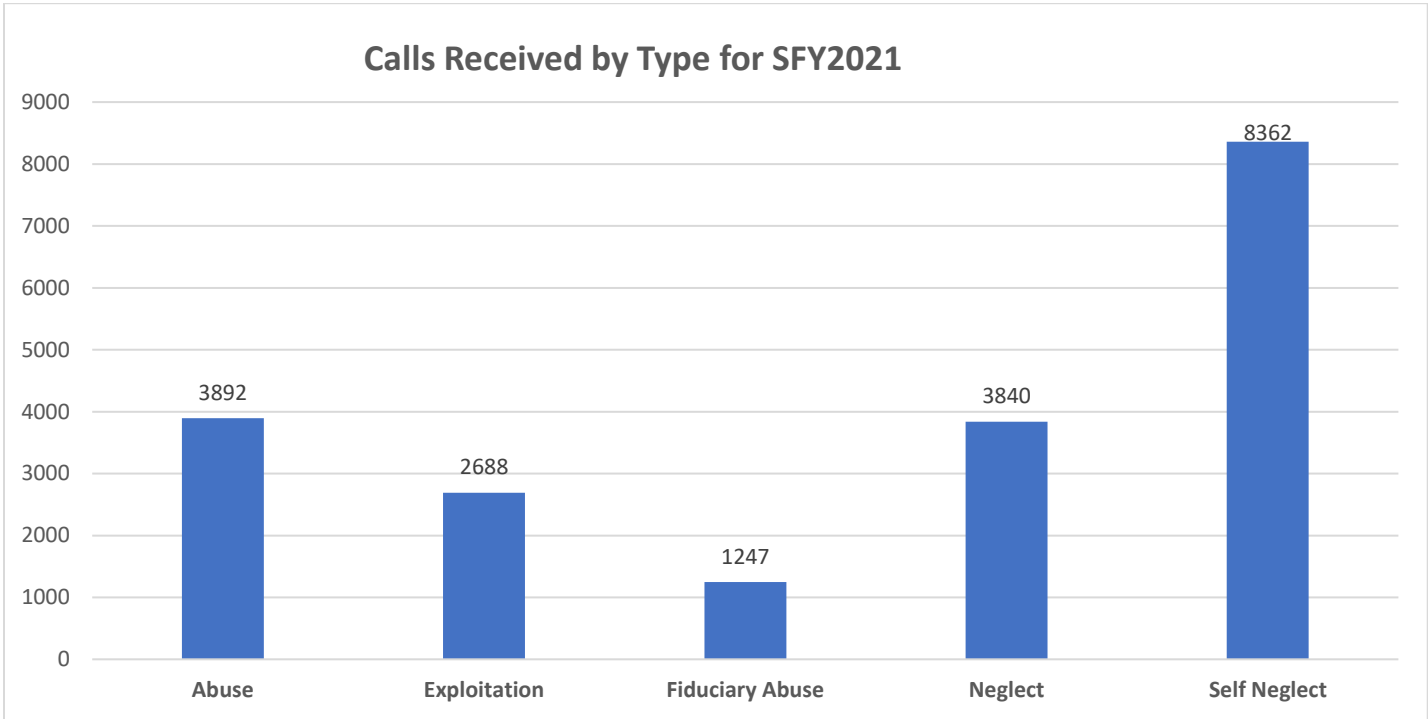
In FY 2021, APS conducted 9,947 investigations. Throughout the six Regions, there are 65 FTE Protection Specialist positions. There are currently eight APS supervisors, four assistant program administrators, one APS Program Administrator and one Deputy Director.



APS has an advisory group made up of multiple stakeholders such as: Attorney General’s Office, Kansas Guardianship Program, long term care ombudsman, private/non-profit long-term care agencies, advocates for individuals with intellectual developmental disabilities, university faculty and DCF administrative staff. The advisory group meets quarterly and provides input and feedback on how APS can improve the work they do.

2021 H.B. 2114 amended laws regarding elder and dependent adult abuse multidisciplinary teams. The bill requires the Attorney General to appoint a Kansas elder and dependent abuse multidisciplinary team coordinator to facilitate the convening of an elder and dependent adult abuse multidisciplinary team (team) in each judicial district. DCF looks forward to the bringing cases to the team as it will enhance both the investigation and prosecution of cases. MDT’s will also identify opportunities for local jurisdictions to improve policies and procedures along with collaboration among stakeholders. MDT participants include but are not limited to law enforcement, AG’s office, KDADS, long term care ombudsman, medical professionals, financial services etc.

# Trends



## Federal Relief Funding

The Administration for Community Living (ACL) established the Coronavirus Response and Relief Supplemental Appropriations Act of 2021: Grants to Enhance Adult Protective Services to Respond to COVID-19. The funding is intended to enhance, improve and expand the ability of APS to investigate allegations of abuse, neglect and financial exploitation. Examples of activities consistent with the purposes of the legislation include improving and supporting remote work, establishing new or improving existing processes for responding to alleged scams, community outreach, PPE and costs associated with providing goods and services to APS clients related to COVID-19.

1. COVID 19 Funding
2. American Rescue Plan Act Of 2021- Grant 1 (August 2021 – September 2023)
3. American Rescue Plan Act Of 2021 - Proposed Grant 2 (August 2022 – September 2024)

COVID 19 Funding	ARP of 2021 Grant 1	ARP of 2021 Grant 2
Total: \$768,741.00	Total: \$704,707.00	Total: Approximately \$2,178,155.00
<p>APS Service Coordinators Positions \$267,186.00</p> <p>Forensic Accountant Services (RFP in Development) \$160,000.00</p> <p>Kansas Information Protection (KIPS) System Upgrades (Central Registry Checks) \$100,000.00</p> <p>APS Staff Training and Education \$90,000.00</p> <p>Exploring Opportunities to partner with Harvesters and Kansas Food Bank \$60,000.00</p> <p>Clients Support and Services \$91,555.00</p>	<p>Kansas Information Protection (KIPS) System Upgrades (Automation of Forms) \$240,000.00</p> <p>APS Staff Training and Education \$32,707.00</p> <p>Direct Service Delivery (999 Positions) \$220,000.00</p> <p>NAMRS Data Collection and Reporting \$70,000.00</p> <p>Development and Distribution Public Service Awareness \$42,000.00</p> <p>Clients Support and Services 100,000.00</p>	<p>TBD</p>