

Chapter VII

2024 Revision

Pennsylvania Department of Aging

Protective Services

Chapter VII. Protective Services

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I. OVERVIEW

A. Purpose

This Protective Services Chapter provides comprehensive guidance to the Area Agencies on Aging (AAAs) to effectively implement the Older Adult Protective Services Act (OAPSA) and the related regulations referenced throughout the document.

B. Legal Authority

Statutory Authority – State and Federal

The Older Americans Act (OAA) authorizes states to receive federal funding through their respective State Unit of Aging to provide services to older adults. Pennsylvania's Department of Aging, designated as the State Unit of Aging, receives federal funding for protective services and is charged with establishing and maintaining a statewide system of protective services for older adults who need them.

The [Older Adults Protective Services Act \(OAPSA\), 35. P.S. 10225.101 et seq.](#) is the statutory framework for Pennsylvania's older adults' protective services (PS) program. OAPSA was enacted to safeguard the rights of older adults, sixty and over who lack the ability to care for their needs, and are at imminent risk of abuse, neglect, exploitation, or abandonment.

Regulatory Authority

The Pennsylvania General Assembly granted responsibility to the Pennsylvania Department of Aging (PDA) as the State Unit on Aging for the development and promulgation of [regulations](#) and policies necessary to implement OAPSA; and a requirement for annually presenting to the General Assembly a report on the program and services performed.

II. PROGRAM ADMINISTRATION

A. Role of PDA

The Pennsylvania Department of Aging (PDA) contracts with the 52 Area Agencies on Aging (AAAs) serving the 67 counties of Pennsylvania to implement a statewide protective services program, as established by state and federal law. Within PDA, the Bureau of Protective Services (BPS) is responsible for providing technical assistance and training to each AAA to ensure compliance with OAPSA-related regulations and policy. The Bureau of Quality Assurance supports the Bureau of Protective Services with programmatic reporting and monitoring.

1. Annual Plan

Under §10225.301(c) and §15.11(b), The Department will review the annual protective services plan submitted by a AAA pursuant to §15.12(b) and will notify the AAA of approval or disapproval within 60 calendar days.

2. Community Outreach

Pursuant to §10225.301(a), and further outlined 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. The AAA may request these materials through a PDA BPS Aging Specialist.

3. Training Responsibilities

Pursuant to §10225.301(b), The Department shall establish minimum standards of training and experience which protective services providers, funded by PDA, shall be required to follow in the selection and assignment of staff for the provision of protective services.

B. Role of AAAs

1. 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.

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 PS Caseworkers must be trained by the AAA on their scope of duties under OAPSA and related regulations offered through staff meetings and/or formal internal training.

2. Community Outreach

Pursuant to §10225.301(c) and further outlined under §15.12(c), a 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.

3. AAA Training Requirements

a. Intake

Pursuant to §10225.301(b) and as stated in §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 a Report of Need (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.

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b. Protective Service Caseworker

(Including back-up/on-call staff, supervisors, and directors directly overseeing PS duties)

Under §15.2, a PS Caseworker is defined as a 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).

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 for protective services as required by The Department.” This annual training begins with the calendar year following completion of the required Basic PS Training. §15.127(b) states that the annual for -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 enrichment 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 enrichment training per calendar year. This requirement is for all PS Caseworkers (full or part-time), back-up or on-call PS Caseworkers, Supervisors, and Directors directly overseeing PS duties.

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

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- The name of individual or organization providing the training
- The date and start and end times of the training
- Total training hours (excluding scheduled mealtimes)
- 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 Institution of higher learning
- 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 Institution of higher learning. Every effort should be made to attend training opportunities provided by PDA.

d. Additional Training Requirements

Pursuant to §10225.301(b) and further outlined under §15.125, PDA has developed and implemented two additional mandatory trainings in order to further enhance training and provide support to the PS network:

- Five (5) year refresher course: Required for every PS Caseworker, back-up worker, supervisor, and director that directly oversees PS duties (i.e. signing off on PS forms, reviewing PS cases, providing PS case consultation, directing PS 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.
- PS Supervisory Webinars: Representation is required from every AAA.

Note: PS 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.

e. Training Records

Training records for protective services staff must be kept up to date 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.

III. PROGRAM ELIGIBILITY AND REQUIREMENTS

A. AAA Requirements for Receiving Reports of Need

1. Intake Process

a. Older Adult Protective Services

The Report of Need (RON) is a written report of abuse of an older adult alleged to be in need of protective services. The RON shall be completed on a standardized form developed by The Department that includes requirements outlined in §15.25 and must be used to record reported allegations. The RON is located within PDA's current Protective Services System (PS System).

To ensure all regulatory required information per §15.25 is documented, reports received by the AAA in other written methods (e.g. email, mail) must also be committed immediately in writing on the standardized RON form required by The Department. PDA is aware that the immediate input of a RON is not always possible in emergency situations when immediate initiation and risk reduction are in progress. In these circumstances, addressing risk to an older adult supersedes the input of a RON in the PS System, however, it is required that the RON be committed in writing to the PS System form within 24 hours of the receipt of the RON.

If the PDA's PS System 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. Technology interruptions should not negatively impact the ability of an individual to take a RON or delay an older adult from receiving services. Agencies must accept a RON even if access to the PS System is not available. All the same requirements regarding referrals and activities remain in place and shall be committed to paper format until the technological issues are resolved and documentation can be entered as required. When the technological issue is resolved, the necessary information must be entered into the PS System. The PS Caseworker shall document in the Notes field of the "Date RON Received" question (1A2) the reason for the delayed entry.

Only individuals who have received the required intake worker training can receive, record, screen, and refer reports of need (RON) pursuant to §10225.301(b) and further defined under §15.124. The mandatory intake worker training is located on The Department's Learning Management System.

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Pursuant to §10225.303(b) and further detailed under §§ 15.27(c), 15.45(a)(4), 15.45(b), and 15.45(c), if the RON involves an older adult receiving service from a facility, the AAA is required to notify the licensing entity and Ombudsman. The role of the licensing entity is to determine if the facility is following its respective state and/or federal licensing requirements. The role of the PS Caseworker is to investigate allegations of abuse, neglect, exploitation, and/or abandonment in accordance with Title 35 OAPSA and Title 6 Chapter 15 Protective Services for Older Adults.

Intake and handling of multiple entries for the same RON for Older Adult Protective Services

There may be instances where Protective Services (PS) inquiries and concerns are not addressed as expeditiously as the public may desire. The aforementioned may occur due to many reasons, including, but not limited to, an ongoing comprehensive investigative process. As a result, the PS Helpline and Area Agencies on Aging (AAAs) may receive multiple calls regarding the same investigation, either from an individual, from others on their behalf, or both. While it is imperative that the RON is accurately captured and documented in the PS System; having multiple RONS for the same presenting incident about the same older adult is ineffective; especially since appropriate investigation would be initiated upon the initial RON. However, in the event a duplicate RON is received from a mandated reporter, regular protocol must be followed to ensure PS incident data is recorded accurately for reporting and analysis purposes.

The procedure outlined below is designed to achieve the following outcomes:

- To reduce the number of RONS generated for the same incident and same older adult by the same reporter.
- To prevent the duplication of the recording of a RON in the PS System that is generated for the same incident on the same older adult by a different reporter than the original reporter.
- To ensure proper data entry is conducted timely and accurately captures the number of RONS for the two situations above.
- To ensure that all collateral information related to an investigation is timely and accurately captured and processed.
- To ensure that all reported suspected abuse incidents result in the generation of a new RON when a new allegation and/or new information is presented, regardless of the number of previous calls received from or on behalf of the individual.

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Verification to determine the existence of an active RON

When a AAA employee receives a call, they may initiate the following procedure:

- (i) Search in the PS System to determine if the older adult is already entered in the PS System.
- (ii) If the name already exists in the PS System, review the generated RON(s) on file for the individual.

Verify and document the following in the narrative section of the applicable RON.

- (1) **Date and Time:** Enter the date and time of the current call.
 - (2) **Verified Reporter:** Verify the caller's first and last name.
 - (3) **Verified Same Older Adult:** Verify the first and last name of the older adult on whose behalf the reporter is calling.
 - (4) **Verified Same Concern:** Ask the caller an open-ended question about why they are calling. If the information matches the current RON, document when the call was received, and no further action is needed.
 - (5) **Referrals:** Document any referrals made to the caller.
 - (6) When there is a new concern, generate a new RON, and follow normal intake procedure.
- (iii) When a AAA receives a RON from the PS Helpline, the following shall occur:
- (1) Review the generated RON(s) on file for the individual.
 - (2) **Verified Reporter:** Verify the caller's first and last name.
 - (3) **Verified Same Concern:** If the information and allegations on the RON from the PS Helpline matches a recent RON that has been received and:
 - Previously investigated with accurate determination, or
 - Actively being investigated and a determination is pendingThis report may be confirmed as a No Need with this information documented in the RON notes section of the PS Helpline RON.
 - (4) **Referrals:** Document any referrals and notifications made on the Helpline RON.
 - (5) When the PS Helpline RON is regarding a new concern, follow normal intake procedure.

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Extenuating reasons for multiple RONS and recommendations to address.

Behavioral Health Issues: When the caller is displaying signs of behavioral health issues, such as aggression, confusion, or lethargy, ask the caller if they would like to be referred to behavioral health resources. Offer behavioral health resources based on location and record the desire for referrals in email for AAA care management follow-up. In extreme cases, refer to mobile crisis units or other collateral contacts.

Complaints received by the PS Helpline: In instances when a complaint is received by the PS Helpline regarding an investigation, determine if the caller would like to refer their complaint to the AAA attached to the investigation and to BPS. If yes, record the complaint for the AAA and email PDA BPS indicating whether the AAA was notified as well.

Protected Information: When the caller is asking persistently about legally protected information, such as the status or outcome of a RON or investigation and the issue cannot be resolved by the AAA, then forward the request to BPS.

b. Adult Protective Services (APS)

Even though intake workers are responsible for responding to the needs of older adults; there are exceptions that may occur. In the event an intake worker creates a RON for an individual 18 to 59 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 is to 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 of abuse, regardless of their ages, a RON shall be created and/or referred to the appropriate investigative entity.

When a report is received for an individual between the ages of 18-59, it must be documented on a RON 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 (APS).

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c. Child Protective Services

When a report is received for an individual under the age of 18, the caller is to be transferred to the Childline at 1-800-932-0313.

d. Multiple or "All" Residents

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 collect as much information as possible including but not limited to, 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 §10225.302(b) and further defined under §15.25(c), from the reporter in order to determine the appropriate action required. If multiple names are obtained, separate RONs are to 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.

2. Capability

Pursuant to §10225.302(b) and as stated under §15.12 and §15.23, 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. As required by §15.26, Protective Services must assist individuals 60 years of age and older and provide appropriate referrals to APS or Childline for any other vulnerable population. Older adult protective services will ensure the receipt and documentation of any report received and recorded, as set forth under §15.42(a)(4). RONs may also be received 24/7 via the PA Protective Services Helpline at 1-800-490-8505.

B. Criteria for Protective Services

While receiving a RON, information is requested to help determine if an individual meets the criteria of an "older adult in need of protective services," under §15.2.

All allegations of abuse, neglect, exploitation and/or abandonment (ANEA), with exception to RONs under "Intake and handling of multiple entries for the same RON for Older Adult Protective Services," (above) must be taken as a RON and categorized, pursuant to §10225.303(a), §10225.701 and further detailed under §15.26. If there is any question as to what the caller/reporter is asking and the concern involves ANEA, the RON must be documented and categorized.

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The criteria to be eligible for protective services are as follows:

1. An Older Adult Within the Jurisdiction of the Commonwealth of Pennsylvania

- (i) The individual does not need to be a resident of Pennsylvania but must be present within the state's jurisdiction when the report of need is made.
- (ii) Reports of Need received for an individual not within the jurisdiction of Pennsylvania (an older adult residing outside the state of Pennsylvania and **NOT** a resident of the state) shall be routed to the appropriate entity where the individual is located at the time of the report. RONS received for an individual not within the jurisdiction of Pennsylvania (an older adult residing outside the state of Pennsylvania and **NOT** within the state when the report of need is made) shall be routed to the appropriate entity where the individual is located at the time of the report.
 - A RON shall not be entered into the PS system for out-of-state consumers, **except** for the following:
 - The consumer is a resident of Pennsylvania who is temporarily located in another state (i.e. hospital in bordering state). Please note, upon return to the state, and in the event another RON received, the AAA will be responsible for the timely investigation initiation, including FTF provisions according to regulation. Coordination with other agencies/entities may be required.
 - If an intake worker receives a call about an older adult who may need protective services but resides outside of the state of Pennsylvania (and is located outside of PA when the RON is received), it's essential to guide the caller appropriately.
 - 1. Acknowledge the Call:** Let the caller know they've reached Pennsylvania's protective services helpline.
 - 2. Provide Guidance:** Inform the caller that since the individual resides out-of-state, they should contact the protective services for that specific state.
 - 3. Share Resources:** Direct the caller to the NAPSA website (<https://www.napsa-now.org/help-in-your-area/>) where they can find the appropriate contact information for protective services in the state where the older adult lives.

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2. Older Adult Who Is 60 Years of Age or Older

An individual within the jurisdiction of this Commonwealth who is 60 years of age or older.

3. Incapacitated Older Adult

These elements are to be considered when making a determination if the older adult is incapacitated.

- (i) Pursuant to §10225.103 and 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. 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. Causes of functional limitations 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 other limitation that impacts the individual's ability to independently secure services on their own.
- (ii) This definition is different from the definition of incapacity defined in 20 Pa.C.S. §§ 5501-5555, regarding guardianship.
- (iii) 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.

4. Absence/Void of a Responsible Caretaker

- (i) Section §15.2 of the Regulation defines a responsible caretaker as: an individual 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 alleged, subject to an investigation under this chapter, to be unable or unwilling to provide the necessary care and protection.
- (ii) §10225.103 and §15.2 defines a caretaker 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.
 - 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 and/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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Examples when a facility cannot be considered a responsible caretaker:

- The facility terminated an employee for alleged abuse of a resident; however, the terminated employee is later determined not to be the abuser. Therefore, the abuser was not identified and may still have access to the resident.
 - An employee was terminated; however, it was later discovered that there were multiple staff involved in the 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 their 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.
 - Exception: 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 and/or mental health of the older adult, and an employee acted independently, carelessly, recklessly or maliciously in abusing, neglecting, exploiting and/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.
- (iii) An individual's power of attorney (POA) or guardian may not be considered a responsible caretaker based solely on the purported fiduciary relationship.
- (iv) 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.
- (v) 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.
- (vi) 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. For additional clarification, reference §15.26(5)(iii).

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- (vii) An older adult may request protective services; however, an older adult calling a AAA requesting protective services for himself/herself may not be considered their own responsible caretaker. The specific details in the report must be considered when determining if an older adult is their own responsible caretaker. For additional clarification, reference §10225.304(a) and §15.91(b).
- (viii) A responsible caretaker (see definition under §15.2) who is alleged to have abused, neglected, exploited, and/or abandoned an older adult and, subject to an investigation, shall be presumed 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.

5. At imminent Risk of Danger to Person or Property (*specifically as it relates to eligibility to be considered an “older adult in need or protective services”*)

- (i) Neither OAPSA nor the Regulation define “imminent risk of danger.” Under the Rules of Statutory Construction and Interpretation, laws should be given their plain meaning whenever possible. When used under this section, “imminent risk of danger to his person or property” means that:
 - The Older Adult is at immediate or impending risk of the possibility of loss, pain, harm or injury to their person or property. That is, there is a strong likelihood that an Older Adult will experience an action, condition, situation, injury or other outcome that is adverse or detrimental to their person or property. Meaning, there is a high risk that something bad is happening, or will potentially happen, if action is not taken to protect the Older Adult.
 - 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.
- (ii) Imminent risk can also be as a result of financial exploitation.
- (iii) 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. Categorization

Once the RON is created, it must be categorized into one of following five (5) categories: Emergency, Priority, Nonpriority, Another planning and service area, or No Need for protective services. Categorization is conducted in accordance with §10225.504 and defined under the regulations at §15.26.

All RONs are categorized based on the information obtained strictly from the intake process in accordance with the regulations. Careful consideration is 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. A AAA may make additional immediate calls only to clarify demographic information, level of risk posed to the older adult and any

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potential safety concerns to ensure proper and/or consistent RON categorization. These calls, if any, shall occur prior to assignment of a PS Caseworker for investigation and would not initiate the investigative process.

1. Considerations

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 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 initial call or interaction with the reporter to help determine the appropriate category and the immediacy of intervention needed. Categorization shall 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.

2. Categories of RONs

a. Emergency - §15.26(b)(1) and §15.42(a)(1)(i) and (ii)

- (i) A report placed in this category requires immediate action 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 AAA or PS Helpline 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.
- (ii) The investigation of a report categorized as emergency shall be initiated immediately following the referral of the report to ensure the safety of the older adult. The PS Caseworker shall conduct a face-to-face visit as soon as possible but no later than 24 hours.
- (iii) OAPSA and PDA policy and procedures requires a RON to be categorized as emergency when 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.
- (iv) 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 a possibility

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that the older adult is at imminent risk of death or serious physical harm, then the RON must be categorized as an Emergency.

- (v) Any attempt to conduct a face-to-face contact with the older adult shall be documented within the PS System (§15.61 or §15.71).
- (vi) Serious physical harm does not 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.

b. Priority - §15.26(b)(2) and §15.42(a)(2)

- (i) The report in this category contains details which clearly suggests the need for protective services is serious enough to require early intervention. The person receiving a Priority report shall immediately contact a PS Caseworker and provide the information contained in the report.
- (ii) The investigation of a Priority report shall be initiated as soon as possible. Reasonable attempts to initiate the investigation shall be made within 24 hours after the report is received. The investigation is only initiated by contact with the older adult reported to need protective services. The PS Caseworker shall make every attempt to visit the older adult face-to-face within 24 hours. Any attempt to conduct a face-to-face contact with the older adult must be documented within the PS System (§15.61 or §15.71).

c. Non-Priority §15.26(b)(3) and §15.42(a)(3)

- (i) A report in this category does not appropriately fall within the Emergency or Priority categories and does not require immediate attention by the AAA.
- (ii) A report in this category shall be referred to a PS Caseworker within the normal business hours of the AAA's current or next day of business.
- (iii) The investigation of a report categorized as non-priority shall be initiated no later than 72 hours upon RON receipt.
- (iv) Per §15.42(a)(3)(i), at the discretion of the AAA, the initiation of an investigation of a nonpriority report shall include a face-to-face 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.
- (v) 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 during 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 PS Caseworker is denied access, the caseworker shall document the efforts made and, when appropriate, take action under §15.61 or §15.71.

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d. No Need for Protective Services - §15.26(b)(5) and §15.42(a)(4)

- (i) Per §15.42(a)(4), the investigation of a report categorized as No Need for protective services shall consist of the PS Caseworker's review of the report categorization. If the PS Caseworker (supervisor or other PS Caseworker) agrees with the initial categorization, as appropriate, referrals shall be made within 72 hours after the report was received, to the AAA care management system. If the report is concerning an adult under 60 years of age, the AAA must immediately refer the report to Pennsylvania 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 and addressed under the applicable provisions for investigating a report in that category.
- (ii) 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:
 - (1) Is under 60 years of age.
 - (2) Has the capacity to perform or obtain, without help, services necessary to maintain physical or mental health.
 - (3) Has a responsible caretaker at the time of the report.
 - (4) Is not at imminent risk of danger to his person or property.
 - (5) Is not within the jurisdiction of Pennsylvania
- (iii) A report in this category shall be referred to the AAA within the normal business hours of the AAA's current or next day of business.
- (iv) The PS 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:
 - (1) Consultation with the intake worker to clarify what is documented on the RON.
 - (2) Under §15.41, AAAs are responsible for assuring that all RONs, that are not initially classified as a "No Need", are appropriately investigated. A PS Caseworker assigned to investigate must then proceed with the investigation according to regulations. It is the AAA's responsibility, or a designated alternative's responsibility, under §15.121-15.127 that intake staff have completed all training to determine the appropriate categorization of a RON at the time of intake.
 - (3) Review 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

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properly categorize is unknown, the RON shall **NOT** be categorized as No Need for protective services and be placed in another category under §15.42.

(v) A report may not be placed in the No Need category, including but not limited to the following situations:

- 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.
- The PS Caseworker and/or PS Supervisor rejects the No Need categorization, the report shall be placed in the appropriate category under §15.42 and be handled accordingly.

(vi) 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. Referrals 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 investigative agency. It should be noted that the RON form itself cannot be transferred to the care management unit due to confidentiality provisions. The PS Caseworker may 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.

e. Another Planning and Service Area - §15.26(b)(4)

The AAA shall receive all RONS 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 immediately 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) and §15.26.

Exception: When a AAA receives a call regarding an older adult who is located out-of-state, the intake worker shall advise the caller they have called Pennsylvania's protective service helpline and provide the caller with the correct States' protective service contact information.

<https://www.napsa-now.org/get-help/help-in-your-area>

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D. 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 §10225.302(d), §10225.706 and §10225.707 and further detailed under §15.22, §15.158 and §15.159.

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 protective service helpline number: 1-800-490-8505, 24-hours a day, 7 days a week. Voluntary reporters may choose to remain anonymous.

2. Mandatory Reporting

Any mandated reporter for OAPS (employee of facility as defined in Title 6, Chapter 15) with reasonable cause to suspect the abuse of any individual that is receiving care in or from a facility, must immediately report that abuse to the local AAA.

Note: self-neglect is defined within the term “neglect” and financial exploitation is considered within the existing definition of “exploitation.” Therefore, when a mandated reporter is reporting any type of abuse, the report shall be recorded as a mandated report.

Pursuant to §10225.701(a)(2) and further detailed under §15.151(a)(2), employees or administrators making an oral report need to make a written report to the AAA within 48 hours.

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.

Pursuant to §10225.701(b)(2) and further detailed under §15.152(a)(3), employees or administrators making an oral report need to make a written report to the AAA within 48 hours. Furthermore, in cases involving sexual abuse, serious physical injury serious bodily injury, or suspicious death, the AAA is required to transmit a written report to The Department within 48 hours.

E. Notifications

The AAA where the older adult is located at the time of the RON is responsible to complete the required notifications. Pursuant to §10225.303(b) and further detailed under §§ 15.27(c), 15.45(a)(4), 15.45(b) and 15.45(c), when the RON involves an older adult that receives services from a facility, the AAA is required to notify the licensing entity and Ombudsman. Specific facility notifications are as follows:

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1. State-Licensed Facility Notifications

See §15.45.

2. Mandated Reports

See §§15.151-15.152.

3. State-operated Mental Health and ID Facilities

See §15.45(c).

4. Mental Health/Intellectual Disability for Mandated Reports

See §15.155(a)(5)(7).

If the AAA has knowledge that the alleged victim has an intellectual disability or mental health condition, the AAA shall notify the PA Department of Human Services ((Office of Mental Health or Substance Abuse Services (OMHSAS) or Office of Developmental Programs (ODP)) with facility licensing responsibilities and the county. When the AAA has knowledge that the alleged victim has an intellectual disability or mental health condition, the AAA shall notify the PA Department of Human Services ((Office of Mental Health or Substance Abuse Services (OMHSAS) or Office of Developmental Programs (ODP)) with facility licensing responsibilities and the county office in addition to making other reports required by §15.155. (Mental Health/Intellectual Disabilities) office in addition to making other reports required by §15.155.

5. Domiciliary Care Oversight Entity and Adult Daily Living Center Oversight Entity

See §15.155(a)(5)(6).

If the alleged victim resides in a domiciliary care home, the AAA shall notify and forward reports to Pennsylvania Department on Aging.

6. Ombudsman

The Ombudsman shall 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, to achieve the best outcome.

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7. State Correctional Facilities

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

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 immediate referral to the following:

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

- If a caller would like to file a grievance according to the Pennsylvania Department of Corrections Policy DC ADM 807, "Inmate Grievance System", the caller will be provided the contact information above.
- The PA Department of Corrections may be contacted by either phone or message center with the information the AAA received through the RON. The PA Department of Corrections will make sure the allegations are investigated.
- Regulations allow information within a RON to be provided to the PA Department of Corrections. As provided under §15.157 (1), the PA 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 Pennsylvania Prison Society; however, the intake worker is to provide the Prison Society's information to the reporter. The reporter is free to contact the Pennsylvania Prison Society and provide information regarding the alleged abuse.

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8. Federal Correctional Facilities

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 are to be directly reported to the facility or to the Northeast Regional Office of the BOP.

Federal Bureau of Prisons Northeast 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

a. Older Adult Deceased Prior to RON and Investigations - See § 15.26(b)(5).

In the event a RON is received on an older adult who is already deceased, the RON is categorized as a No Need for protective services. 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.

In the event a RON is received on an older adult who is already deceased, the RON is categorized as a No Need for protective services and immediately closed in accordance with the OAPSA Procedural 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.

b. Older Adult Deceased After Receiving the RON – See § 15.46(g)

In accordance with §10225.702(b) and further outlined under §15.46(g) and §15.154(b), 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 "Death of Older Adult" and section "Protective Services Collaboration with Licensing, Law Enforcement and Others" of this policy and procedural document.

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10. Conflict of Interest Reports

See §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. A conflict of interest occurs when a situation interferes with a AAA or AAA employee or representative's ability to provide objective information or act in the best interests of the older adult.

Under §15.42(b), if the AAA is required to investigate a report which alleges that abuse, neglect, exploitation and/or abandonment has been perpetrated by an employee of the county, the AAA or its subcontractor, PDA BPS shall be notified of the conflict of interest during the current or next day of business upon RON receipt. The notification should include the PS System Case Identifier. However, PDA BPS does not need notified upon case closure.

As per regulation §15.42(b) PDA reserves the right to intervene in the AAA's investigation when such a conflict exists.

When a AAA determines it cannot or should not investigate, the PS Caseworker and/or Supervisor must document the reason and provide an explanation and rationale regarding why they cannot conduct the investigation within the case record. Additionally, the AAA shall make arrangements with another AAA to conduct the investigative activities. 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:

- (i) Completing the investigation
- (ii) If the alleged perpetrator is an employee that has access to the PS System, assessment forms shall be secured with a AAA generated password that is not known to the alleged perpetrator. The password will be shared only with PDA BPS. PDA BPS will be provided with updates as requested. In this circumstance, journals would be entered in the ISA narrative section to ensure password protection.
- (iii) As provided in §15.42(b), PDA BPS reserves the right to intervene in the AAA's investigation as 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 BPS intervenes in an investigation, a journal note will be added to the case record indicating PDA's involvement and next steps.

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When a county employee or subcontractor is the AP, and the AAA's Protective Services Director determines there is no apparent conflict of interest and the AAA's PS Department can complete an objective investigation, they may conduct the investigation.

F. Investigative Process

The purpose of an investigation is to determine:

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

1. Initiation

Once the RON is categorized and the PS Caseworker receives and reviews the RON, an investigation shall be initiated based on the standards for initiating an investigation pursuant to §10225.302 and further defined under §15.42.

2. Investigation

The investigation is defined in the regulations under §15.2. An investigation shall include, at minimum, with consideration of consent (see below), interviews with the older adult and appropriate collateral contacts including the alleged perpetrator, relevant medical and financial document reviews, pictures (if appropriate) and observations from face-to-face interviews.

Investigative interviews should be used to collect information about the incident involving the older adult and other information about the older adult. The interview should include information directly from the older adult about the incident. The investigation should also include the alleged perpetrator's account of the incident.

All investigative 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 case care plan journals.

During an investigation, the PS Caseworker collects information including but not limited to medical and financial records, makes direct observations, conducts interviews with appropriate collateral contacts, and reviews appropriate records. The PS Caseworker must make a determination regarding allegations of abuse and/or neglect within 20 days of the report if there is enough information to identify that the older adult is or was in need of protective services either at the time of the RON or incident.

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A PS Caseworker is to develop an investigative plan for each investigation. The plan maintains the focus of the investigation and assures that all pertinent information is obtained and recorded most efficiently.

If Pennsylvania Department of Aging determines that a 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 recommendations 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 PS 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 case record indicating PDA's involvement and next steps.

a. Interviewing or Interview 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 an 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 shall comply with the timeframes provided in 15.42(d) to assure that the investigation is conducted expeditiously. 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 may 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. Systematically approaching collateral contacts, can result in a well-rounded perspective that informs case assessment and planning.

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 to assist the PS Caseworker in the investigation process. The interviewing process shall 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:

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- 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
 - Alleged perpetrator
- Community Interviews:
 - The older adult
 - The older adult's primary care physician or other caregivers/professionals
 - 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
 - Alleged perpetrator

Interviews are a critical part of determining whether an older adult needs protective services. While there's no set number of collateral contacts that must be interviewed, relying solely on the older adult and the alleged perpetrator is typically insufficient. Here are some key considerations:

1. **Importance of Collateral Contacts:** Engaging multiple sources helps build a clearer picture of the situation. These contacts can provide insights that may confirm or contradict the accounts of the older adult and the alleged perpetrator.
2. **Addressing Isolation:** In cases where the older adult is isolated and no collateral contacts are available, the PS Caseworker should document all efforts made to locate additional contacts. This documentation is crucial for transparency and for demonstrating the thoroughness of the investigation.
3. **Systematic Investigation:** Following the guidelines outlined in the "Investigative Process" section ensures that the investigation is methodical and comprehensive. This may include looking at records, interviewing neighbors, healthcare providers, or any other relevant individuals.
4. **Thorough Documentation:** Keeping detailed records of the investigation process, including attempts to contact collateral sources and the rationale for any limitations, is essential for accountability and future reference.

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There are several reasons why the alleged perpetrator(s) and the older adult are not considered adequate as sole contacts in an investigation.

1. **Older Adult's Vulnerability:** Older adults may experience fear, intimidation, or pressure from others, impacting their ability to provide accurate information.
2. **Cognitive Impairments:** Many older adults may have cognitive impairments that hinder their memory or understanding of events, complicating their testimony.
3. **Perpetrator's Self-Protection:** Alleged perpetrators often downplay their involvement or avoid admitting wrongdoing, which can skew the investigation.
4. **Need for Comprehensive Evidence:** Interviews with both parties alone may not yield a complete picture. Engaging additional witnesses or evidence can provide a more balanced view.
5. **Fairness in Investigation:** Interviewing the alleged perpetrator allows them to present their perspective and any evidence that might be relevant, ensuring a thorough and fair investigation.

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 services the older adult may be eligible for, and 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 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 record.

Under no circumstance should the PS Caseworker send correspondence to the older adult's last known physical 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. As a last resort, a certified, general AAA informational letter regarding the availability of services and requesting that the older adult contact the AAA is permissible.

b. Documenting Interviewing Activities

The PS Caseworker shall 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 other sufficient sources that can offer corroborating information, this finding must also be documented.

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3. Exploring and Detecting All Types of Abuse

The AAA is required to assess for all types of abuse during every investigation. Regardless of the initial allegation of abuse, it is the responsibility of the AAA PS Caseworker to explore the potential of other instances of abuse as it pertains to the older adult in question. As such, timely contact with the older adult is important to ensure all types of abuse can be examined. The protective services (PS) Caseworker must document in the protective services care plan journal both successful and unsuccessful attempts to access the older adult.

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, neglect, exploitation and/or abandonment. Through investigation, the PS Caseworker is to identify, mitigate or eliminate any imminent risk(s) posed to the older adult and act to prevent further exposure of an older adult to the identified risk(s). In many cases, protective services provide intervention to ensure the safety and wellbeing of older adults who may be cognitively and/or physically impaired without adequate supervision or care/services.

In accordance with OAPSA, §10225.303(d) - §10225.304(b) and further outlined under §15.44 and §15.91(b) - §15.91(d), protective services shall always attempt to obtain consent for services and utilize least restrictive interventions, while encouraging self-determination and continuity of care throughout the provision of person-centered services and supports, when possible.

4. Executive Functioning and Incapacity

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. There are times when an older adult can answer specific questions posed to assess their cognition; however, they do not 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 plan to improve their own situation or to remove their own risk.

Executive function is the higher-level of 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.

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- 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

Source: 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 and determine executive functioning should also be completed when appropriate.

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. 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.

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For the purpose of protective services, the regulatory definition of incapacity is not limited to cognitive deficits. Pursuant to §15.2, 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.

5. PS System Care Plan Journals

Detailed information regarding the investigative activities taken, the investigative findings and the case determination are to be documented in the care plan journals. Activities that must be documented in the care plan journals shall include, but are not limited to:

- Face-to-face visits with the older adult, including dates and times of any attempted visits with unsuccessful contact.
 - The initial face-to-face visit shall consist of discreet notification to the older adult, attempting to obtain consents and providing and reviewing the rights of the older adult.
 - As applicable, the face-to-face reassessment visit, detailing the review of the services provided to ensure effective risk mitigation prior to case closure.
- 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.
- Supervision provided including next steps.
- Least restrictive options offered/discussed.
- The receipt and summary of any records or other information reviewed during the investigation.

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6. Investigation Summary and Assessment (ISA) Form

The ISA form must be created immediately by the PS Caseworker in the PS System upon confirmation that a RON will be investigated. The ISA serves as a working document for the PS 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 in the ISA to ensure compliance with regulatory requirements.

For the assessment portion of the ISA, please refer to §15.92 and the “Assessment” section of this policy and procedural document.

7. File Attachments

The file attachment section of the case record shall be used for uploading all essential documents collected during the investigation and service provision. However, in cases where the alleged perpetrator is an employee and/or has access to the PS System, these documents shall be maintained outside of the PS System in a secure manner to prevent the AP from having access to the information or files.

G. Access to Older Adult and Records

1. Access by Consent - §10225.304, §15.63

Pursuant to §10225.304 and further detailed 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 which protective service caseworkers shall follow when completing investigations and offering services to older adults. The AAA shall offer protective services under any of the following conditions:

- (i) The older adult requests such services.
- (ii) Another interested party requests such services on behalf of the older adult.
- (iii) If, after investigation of a report, the AAA determines the older adult is in need of such services.

An older adult shall receive protective services voluntarily, except in such cases when services are ordered by a court, requested by a guardian of the older adult, or provided under an involuntary intervention by emergency court order.

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2. Access to Older Adults - §10225.304(e), §15.612

Access to older adults, except in emergency situations or priority protective services cases, shall be between the hours of 7:00 a.m. and 9:00 p.m.

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

- (i) Investigate reports.
- (ii) Assess the older adult's need and develop a service plan for addressing determined needs.
- (iii) 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, secondary to possible ANEA, the PS Caseworker is to make all reasonable efforts to clearly inform the party denying access of the legal authority provided by law 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:

- (i) Pursuant to §10225.304(f)(1) and further detailed under §15.61(c)(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.
- (ii) Pursuant to §10225.304(f)(2) and further detailed under §15.61(c)(2) the AAA can demonstrate that the older adult reported to need PS is denying access because of:
 - Coercion
 - Extortion
 - Justifiable fear of future abuse, neglect, exploitation, and/or abandonment

In situations where the older adult is denying access to themselves, the rights of the older adult are to be upheld and honored. Pursuant to §10225.308 and further detailed under §15.81, older adults have the right to know that a RON has been made and be provided a 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 shall be completed in accordance with the statute and regulations. The investigation shall provide the necessary information to determine if a

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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 if an older adult declines to meet or speak with the PS caseworker; the caseworker is required to make every attempt to engage with the individual, as well as identify and interview relevant collateral contacts. The purpose of this aspect of the investigation is to determine whether the older adult is victimized, despite their reluctance to seek assistance due to fears of further abuse or retaliation. It is not uncommon for older adults who are mistreated or abused to express denial to the PS Caseworker, fearing the potential consequences from the perpetrator.

3. Access to Records - §10225.304(d), §15.62

At the beginning of the investigation, the PS Caseworker is to 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 to maintain as much confidentiality as possible. Requests for records access should be between the hours of 7 a.m. and 9 p.m., except in emergency or priority protective services cases.

The AAA shall have access to records relevant to:

- (i) Investigations of RON received.
- (ii) 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.
- (iii) 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 is to make all reasonable efforts to clearly inform the party denying access to the records of the legal authority to access provided by law and the available resources through a court order.

If the party continues to deny the AAA access to relevant records, the AAA may petition the court for an order to require the appropriate access when one of the following conditions applies.

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- (i) Pursuant to §10225.304(h)(1) and further detailed under §15.62(c)(1) the older adult has provided written consent for confidential records to be disclosed, and the keeper of the records denies access.
- (ii) Pursuant to §10225.304(h)(2) and further detailed under §15.62(c)(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.

Pursuant to §10225.304(g) and §15.63, a written consent (a release) for access to confidential records shall be obtained from the older adult or a court appointed guardian. 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.

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. If the older adult is assessed as having capacity, 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. If the older adult has been assessed as lacking capacity and has no authorized representative, and risk cannot be reduced or eliminated without access to records, this assurance cannot be given. 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 PS 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
- Justifiable fear of future abuse, neglect, exploitation and/or abandonment

If the older adult's refusal is not of their free will, the PS Caseworker must provide documentation detailing the chain of events leading to the refusal, demonstrating to the court that the refusal is not of the older adult's free will. The document should be clear, concise, comprehensive, and logically constructed to show examples of the older adult's behavioral responses to actions taken or threats by the caretaker, abuser, etc. Relevant RON information will be critical and further discussions with the reporter or other contacts may yield additional information to support the reasons why the older adult's refusal is not voluntary.

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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 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.

4. Interference with Services - §10225.304(c), 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.

H. Emergency Intervention by Court Order

Involuntary Intervention by Emergency Court Order under sections §10225.307, §§15.71-15.76 may only be sought when there is clear and convincing evidence that an older adult is at imminent risk of death or serious physical harm if protective services are not immediately provided.

The AAA shall use emergency protective action only as appropriate and necessary as a measure of last resort to protect the life and safety of the older adult from harm from others or self-harm.

A AAA may seek an emergency order when:

- There is imminent risk of death or serious physical harm.

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This means the older adult must be facing an immediate or impending risk of death or serious physical harm if protective services are not provided. The risk of death or serious physical harm must be about to occur. It does not apply to an event that may happen in the future.

- There is clear and convincing evidence.

The evidence of the immediate or impending death or physical injury to the older adult must be clear and convincing, meaning it is highly and substantially more likely to occur than not to occur.

Prior to a AAA seeking an emergency order:

- Have a conversation with the older adult:

Before a PS Caseworker decides to seek an emergency order, the caseworker must attempt to talk to the older adult, if possible, to determine if the older adult understands they are facing an immediate or impending risk of death or serious physical harm if protective services are not provided. The caseworker attempts to determine if the older adult can make an informed decision regarding receiving the proposed protective services. When an older adult can make an informed decision and understands the immediate or impending risk of death or serious physical harm he/she is facing if protective services are not provided, the AAA may still decide to seek an emergency order. However, the PS Caseworker must inform their solicitor of the older adult appears to have capacity and understands the risks he/she is facing.

- Less restrictive alternative:

The PS Caseworker must also review and attempt to implement any less restrictive alternative prior to seeking an involuntary intervention. When an alternative to seeking an emergency order exists, the AAA must pursue the alternative. In some instances, requesting wellness checks from local law enforcement officials can be helpful, and could prevent the need to seek an emergency order. 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, clergy, family and friends or other responsible caretakers.

- Consult with Supervisor, Director, and Solicitor:

When involuntary intervention is being considered, a PS worker must consult their supervisor, director, and solicitor. The PS Caseworker must inform the individuals of the clear and convincing evidence of the imminent risk of death or serious physical harm to the older adult if protective services are not provided. The PS case worker may also consult with a physician and/or nurse consultant if necessary and available. However, the solicitor can determine if legally sufficient evidence exists to pursue an emergency order for an involuntary intervention from their local judge.

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- When the AAA determines to seek petition for an emergency order:

When the AAA has determined there is clear and convincing evidence that, if protective services are not provided, the older adult to be protected is facing an imminent risk of death or serious physical harm and there are no available less restrictive alternatives, or they have failed. The AAA may petition the court for an emergency order to provide the necessary services. The petition will document the clear and convincing evidence of imminent risk of death or serious physical harm to the older adult. The petition for an emergency order must be filed by the AAA solicitor to complete the petition for an emergency order. The PS Caseworker must provide a written report including the contents of the petition as outlined in section §15.72 of the protective service regulations for the solicitor and the protective service case record.

1. 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 involuntary intervention as it is important to assess the older adult's understanding of the risk and related consequences. The basis for assessing if an older adult meets the definition of an older adult in need of Protective Services is whether the older adult-lacks capacity to obtain services to maintain physical or mental health including property.

An older adult may be ambulatory, but still lack the ability to independently obtain 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 duration of time. An older adult meets the basis of an older adult in need of protective services, if they are at imminent risk of danger to the person or property and is unable to perform or obtain services that are necessary to maintain their mental or physical health, and there is no responsible caretaker.

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 a AAA may choose to seek an emergency involuntary intervention under §10225.307, even in the case in which the older adult makes an informed decision to refuse services.

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

As per §15.71(a), when an AAA's solicitor has determined to petition the court for an emergency involuntary intervention a PS Caseworker must identify clear and convincing evidence that if protective services are not offered, the older adult to be protected is at risk of imminent death or serious physical harm. The petition shall clearly and specifically document the imminent risk of death or serious physical harm to the older adult if services are not provided.

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The PS Caseworker must obtain supporting information to identify the potentially dangerous outcome that would result if services were 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 in the petition. Some agencies use a 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 for the PS Caseworker to provide objective supporting information to support the imminent risk/condition and consequences that warrant the emergency involuntary intervention petition.

3. Evaluate All Reasonable Alternatives

There is a certain immediacy in these situations, however; any least restrictive alternatives should be evaluated, offered, and implemented to remedy the situation before petitioning the court for such an intrusive action as an emergency involuntary intervention order.

Pursuant to §10225.303(d) and further defined under §15.2, least restrictive alternatives are the appropriate course of action on behalf of the older adult which least intrudes upon the personal autonomy, rights, and liberties of the older adult in circumstances when an older adult lacks the capacity to decide on matters and take actions essential to maintaining physical and mental health.

This may include providing an option, program, or facility choice that fosters independent living that is the least confining for the older adult's condition and/or situation. This principle holds that protective services should interfere with the autonomous freedom of individuals to the least possible or necessary extent to ensure health and safety, while reducing or eliminating risk to the older adult. Less restrictive alternatives include but are not limited to existing: advance directives such as durable power of attorney or trusts, living wills, health care powers of attorney, health care representatives, financial powers of attorney, trusts, including special needs trusts, representative payees for individuals receiving Social Security benefits, Pennsylvania Achieving a Better Life Experience accounts and/or mental health advance directives. Informal supports, including but not limited to family, friends, neighbors, significant others, may be consulted and considered depending upon the circumstances to ensure least restrictive alternatives are being sought.

4. Discussion of Alternatives and Informal Support(s) with Older Adult

The PS Caseworker and the older adult shall 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 informal support(s)) shall be solicited and considered. The PS Caseworker shall always treat older adults with dignity by asking for their input and sincerely considering the older adults' requests. The PS Caseworker shall allot time to discuss appropriate alternatives with all interested parties to

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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 shall 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, shall not be to the detriment of the older adult. The PS Caseworker shall determine how much time can be spent on this effort before it creates an additional risk for the older adult. In all cases, careful consideration is given to the older adult's individual needs and desires. An emergency order for an involuntary intervention shall be considered as a last resort.

5. Encourage the Most Appropriate Alternative(s)

After evaluating all appropriate alternative interventions and discussing them with the older adult and any interested parties, a PS Caseworker shall determine the most appropriate approach and encourage the older adult to consent to that intervention. Priority shall be given to least restrictive alternatives. Sufficient time shall 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 shall 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 shall 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 for least restrictive measures to remedy the situation before it requested the court order.

6. Obtain Information to Support All Actions

At all stages of this process, the PS Caseworker shall 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 protected 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:

- medical history
- present medical condition including medications and treatments.
- psychiatric/psychological evaluations

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- current medical reports
- social history
- medical/mental health opinion of the older adult's current condition
- older adult's ability to make an informed decision.
- medical opinion on the identified risk(s) or danger(s)
- photographs of the older adult's living environment
- police reports
- other court documents

7. Retain All Court Records and Correspondence

The PS case file shall 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 is to be kept in chronological order, so a logical progression of investigative activities is documented.

8. Document All Actions Including Unsuccessful Efforts

Regulation §15.76 provides, "the agency shall document in the case record emergency intervention action it takes." The PS Caseworker shall document all investigative activities and determinations in the 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 and include all pertinent data. Documentation is to 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.

9. Older Adult's Right to Legal Counsel

When the agency petitions the court for emergency involuntary intervention, the agency shall ensure the older adult is advised of their right to be represented by counsel at all stages of the proceedings. (§10225.307(c), §15.71(b)).

Notification to Counsel

If the AAA is aware that the older adult has legal representation, the AAA shall attempt to notify the attorney prior the filing of an emergency petition. If the older adult has no legal representation, the AAA shall notify their Title IIIB funded legal provider to provide legal assistance to the older adult.

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The AAA's notification to the attorney shall contain sufficient information regarding the risk(s) posed to the older adult and the proposed remedy, so that counsel may determine if their presence is necessary at an emergency hearing. Notification to counsel shall include a copy of the petition with affidavits.

10. Petitioning the Court for Involuntary Intervention

The AAA may petition the court for an emergency order to provide necessary services when there is clear and convincing evidence that an older adult is at imminent risk of death or serious physical harm to their person or property, if protective services are not immediately provided. (§10225.307(a), §15.71(a)).

An emergency petition may be sought for the following reasons, including but not limited to:

- 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
- Guardianship

Forcible Entry

- 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. (§10225.307(d), §15.74).

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Guardianship

- The older adult's self-determination is of primary importance, and that guardianship and conservatorship should be a last resort. The principles of self-determination and reliance on least restrictive alternatives are foundational to this. This means that AAA must ensure all least restrictive alternatives are attempted prior seeking guardianship.
- The AAA shall use a person directed, trauma-informed approach, considering the unique needs, strengths, preferences, experiences, and goals of each older adult. In relying on least-restrictive alternatives, the AAA maximizes the older adult's independence and community integration through holistic case planning and service provision, either directly or in coordination with community partners. This type of service provision, support, and collaboration is at the heart of effective Protective Services practice and is relied upon in lieu more restrictive options, such as out of home placements or petitions for guardianship whenever possible.

If the AAA identifies there is clear and convincing objective evidence that an emergency court order is required to 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.
- 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

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- 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.

§15.72(b) provides that nothing in OAPSA precludes or prohibits the oral presentation of a petition for involuntary intervention. When an 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.

§15.72(c) provides that allegations which are not based upon personal knowledge shall be supported by affidavits provided by persons having that knowledge. The affidavits shall be attached to the petition.

§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, when the original order expires, the AAA shall request the court to hold a hearing to review the need for an additional emergency court order or other continued court and PS involvement, or both. 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

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notify PDA BPS. BPS will 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 the county's Department of Human Services Administrator, Chief Executive Officer, County Administrator, County Commissioners, or arranging a contract with a different solicitor.

11. Remain Actively Involved

When the involuntary intervention petition is granted, the PS Caseworker's involvement and responsibility continues. Close contact shall 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, pursuant to §10225.307(e) and further detailed under §15.75 provides when a AAA obtains an involuntary intervention, the AAA shall 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:

- (i) Making sure older adult's home is locked and secure.
- (ii) Arranging for the care of animals
- (iii) Arranging for the care of any dependent individual for whom the older adult may have been providing support.

I. Death of an Older Adult

Special notice is provided regarding reporting of deaths under OAPSA. As applicable, make a referral to the Suspicious Death Multidisciplinary Review Team (SDMRT). PS Caseworkers shall observe the following guidelines when handling reports involving the death of an older adult:

1. Reporting Requirements

a. Reporting to Coroner and Law Enforcement

- In accordance with Regulation §15.46(g), if the death of an older adult reported to need protective services occurs after receiving a RON but 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.
- 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.

b. Release of Information to Law Enforcement

- Pursuant to §10225.306(b) and §15.105(2) relating to the release of information, when an investigation by the AAA results in a report of criminal conduct, 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.

2. Mandatory Reports

Reporting to coroner and law enforcement:

Pursuant to §10225.702(b) and further defined under §15.154(b), for reports received under §10225.701 and further defined under §15.152 which concerns the death of an older adult, if there is reasonable cause to suspect that the older adult died as a result of abuse, the AAA shall give the oral report and forward a copy of the written report to the county coroner wherein the death occurred within 24 hours. Note related to oral report: voicemail and email does satisfy regulations.

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- The PS Caseworker does not have to have absolute proof that the death may be related to abuse or neglect to make this report. The written report to be submitted under this provision can be the official PDA Mandatory Abuse Report Form in which the PS Caseworker is required to fill in the coroner sections labeled “AAA Use Only” or the PB 22 form provided by the facility may be substituted to fulfill the written reporting requirements. Make an oral report and clearly document the referral 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.

3. Release of Information to Law Enforcement

Under §10225.705(b) and further outlined in §15.105 and §15.157 release of information may be provided to law enforcement officials of any jurisdiction as long as the information is relevant to their investigating cases of abuse.

- Law enforcement may be provided with the name of the person suspected of committing the abuse.
- Law enforcement may be provided with the identity of the person that made the mandatory report.

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

J. 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 §10225.103 and further defined under §15.2). It is important to remember that the licensing oversight entity, such as the Department of Health or the 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.

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Pursuant to §10225.303(b) and further detailed under §15.45(b)(2) it is required that during 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 licensing entity 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, §10225.704 and §15.156(a) require a facility to immediately develop and implement an individual plan of supervision or, when appropriate, suspension of the employee. §10225.704 and §15.156(a) require a facility to immediately develop and implement an individual plan of supervision or, when appropriate, suspension of the employee. 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.

An administrator or a designee or facility owner who intentionally or willfully failed to comply or obstructed compliance with reporting suspected abuse, under §§15.151-15.158 shall be subject to an administrative 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 Commonwealth agency that regulates the facility 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 agency 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 and Cooperation with Law Enforcement

When a AAA receives a report of suspected elder abuse which also alleges criminal conduct against the older adult, the AAA shall immediately notify local law enforcement and or the local district attorney.

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 shall work cooperatively in identifying and responding to elder victimization. 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,

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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:

- (i) Achieve specific coordination objectives with:
 - (1) Police departments in the planning and service area.
 - (2) The district attorney's office.
 - (3) State Police field installations for the planning and service area.
 - (4) Officials of the court system.
 - (5) Legal assistance agencies.

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

- (iii) 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.

- (iv) 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.

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 a AAA provides law enforcement with records, documents, photographs, etc., under §15.105 or §15.157, the AAA shall document the release of the records with the standardized cover letter citing the regulation authorizing the release of the records. The cover letter shall 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.

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- 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 shall be taken so the PS Caseworker is not seen as an agent of law enforcement.

Pursuant to §15.46(d), PS Caseworkers are obligated to educate older adults 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 assist with referrals, advocacy, and support.

Establishing relationships with local law enforcement is a benefit for both older adults and PS Caseworkers. When appropriate, local law enforcement can accompany PS 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; as such PS Caseworkers must make referrals to law enforcement when:

- A PS Caseworker is witnessing a crime in progress.
- PS Caseworkers identify neglect or abuse of a care dependent person. PS Caseworkers are mandatory reporters to the Attorney General per 18 Pa C.S. §2713 (Neglect of Care Dependent Persons)
- Pursuant to §15.93(c)(3) and §15.94(a), if the PS Caseworker believes that a crime has been committed, and/or the older adult or authorized representative gives consent, a referral to law enforcement can be made. A previously noted in section entitled *petitioning the court for involuntary intervention* the following applies:

§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. 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.

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When law enforcement investigates simultaneously with the protective services investigation, per §15.46(f), law enforcement does not have the authority to stop or suspend a protective services investigation.

Law Enforcement/ PS Caseworker & Alleged Perpetrator

In the event law enforcement verbally requests the alleged perpetrator is **not** contacted and/or interviewed by the PS Caseworker, the AAA should ask law enforcement to send a formal written request, which should request the AAA delay their interview of the AP and/or investigation because of their current criminal investigation. The letter documents law enforcement's request and explains the reason the AAA's investigation was delayed or why the AP was not questioned. Any request from law enforcement to delay an investigation or interview should be documented in the investigative records and documented in the case record. If the written request is not obtained from law enforcement, the PS Caseworker shall comply with law enforcement's request.

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.

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).

K. Abuse and Neglect Cases

1. Definition

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.

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(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.

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 and comprehensive investigation 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.

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Investigations of alleged abuse or neglect (including self-neglect) shall include direct interviews with the older adult (when able) and the alleged perpetrator (when applicable and appropriate) 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 may 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 executive and cognitive functioning, their informal supports, medications, past behaviors, etc. Medical professionals shall be included in investigations of abuse and neglect cases.

When interviewing the older adult's primary care provider, the PS Caseworker shall 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:

- 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. It is best practice to obtain the physician's assessment of potential abuse and cognitive functioning in writing for the case record.

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 shall be consulted to obtain information and may include, but are not limited to the following AAA consultants:

- Psychiatrist
- Psychologist
- Physician
- Physician assistant
- Nurse Practitioner

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- Registered Nurse (for noncomplex medical situations, i.e. to determine if a psychiatric evaluation is warranted.)

Other resources may be consulted to obtain general information but does not replace a medical evaluation or medical opinion. This includes, but is not limited to:

- Home Health Agency
 - Nurse
 - Home Health Aide
 - Personal Care Worker
- 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 in the PS System.

L. Financial Exploitation Cases

1. Definition

Financial exploitation is the:

- Wrongfully taking, withholding, or using an older adult's money, assets, or property.
- Using a power of attorney, guardianship, or conservatorship, or other fiduciary relationship to obtain control over an older adult's money, assets, or property.
- Using an older adult's resources without their informed consent, or with consent obtained through coercion, threats, or intimidation.
- Financial exploitation may be committed by a caregiver, family member, person in a position of trust or a stranger.

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Some examples of financial exploitation include:

- Property theft
- Misuse of income or assets
- Forged and stolen checks
- Convincing an older adult to sign a contract that results in unwanted financial commitments.
- Identity theft
- Scamming an elder into withdrawing money from the bank
- Withdrawing more funds than authorized from an older adult's account for personal use.

2. Investigating Financial Exploitation

Older adults are vulnerable to financial exploitation, and they are entitled to the same investigative process whether residing in a community or facility setting. Financial exploitation allegations are not required to be determined within 20 calendar days.

A referral of a financial exploitation case shall be made to law enforcement regardless of an older adult or authorized representative's consent to the referral. Please note, it is then up to the older adult or authorized representative to follow through with prosecution.

PDA has developed training and resources on the effective investigation of exploitation cases available to the AAA network via local institute on higher learning. Any questions regarding how to conduct these 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 BPS or the Institute on Protective Services at local institute on higher learning, may be consulted.

To substantiate a case of 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.

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

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

After consent is obtained from the older adult or their 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, look for suspicious activity, and if financial exploitation is occurring or has occurred. Financial exploitation investigations must include documentation that summarizes the PS Caseworker's review of all relevant financial information regarding the older adult. This review must include all money and assets alleged to be exploited from the older adult. If appropriate, additional financial documents may be reviewed including deeds, mortgages, certificates of deposit, and/or stocks, bonds, wills, and mutual funds.

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 PS System file attachments for the older adult.

Financial exploitation investigations are not required to be determined within 20 calendar days; however, the investigation should be determined 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 if known and/or available.

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 the Institute on Protective Services (IPS) at Institution of higher learning. The IPS at Institution of higher learning can be contacted for assistance, consultation, and expert analysis for complex financial exploitation cases. For assistance in contacting IPS, contact PDA BPS. Any contracted accountant or other financial experts utilized must sign a confidentiality agreement prior to accessing an older adult's financial documents.

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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, take steps to prevent reoccurrence, protect future funds, and to assist the older adult with the recovery of their funds or assets if agreeable to that course of action. Assisting in the recovery of the older adult's funds may 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
- AAA contracted legal provider for older adult legal representation
- Institute on Protective Services at Institution of higher learning (Financial Exploitation Investigator)
- Department of Aging
- Elder Abuse Task Force
- Attorney General
- Power of Attorney, Guardianship Records for Review
- Contracted Forensic Accountant

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3. Investigations regarding Financial Exploitation and Facilities

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. Protective service investigations and protective service interventions shall be provided to all older adults that meet the criteria, even if they reside in a facility.

Some examples of potential financial exploitation in a facility may include, but is not limited to:

- A facility indicating an older adult's facility bill has not been paid by a designated party.
- Nonpayment of an older adult's bills for services such as:
 - Pharmacy bills
 - Long-term care insurance policies
 - Supplemental health insurance
 - Medical services

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.

4. Types of Exploitation

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

- (i) Family, Acquaintance or Caretaker
- (ii) Stranger

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 the older adult's 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

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- 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 Helpline at 1-888-520-6680.

5. Types of Fiduciary Relationships

A fiduciary relationship is 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:

a. 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 have capacity 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 incapacity. The Power of Attorney cannot replace the choices made by an older adult with capacity. Please note there may be circumstances where an older adult with capacity chooses to defer decisions to a designated agent (POA).

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In all cases where someone claims to be POA, a copy of the POA must be obtained by the AAA and uploaded into the file attachments for the older adult. Please note that POA documents dated January 1, 2015, and later should be notarized and include two qualified witnesses. No person shall be considered POA without providing the signed and notarized POA document.

b. Guardian

As a last resort, after all least restrictive alternatives have been exhausted, a guardian with fiduciary relationships may be appointed after a court has determined an older adult is incapacitated and has determined the appointment of a guardian is required. 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 areas.

c. Other Types of Fiduciary Relationships

There are other fiduciary relationships including representative payees, trust officers, plenary guardian (full authority), limited guardian (temporary), emergency guardian (temporary), guardian of estate (related to property and finances of the person).

M. When an Older Adult Cannot be Located.

When an older adult is alleged to be or is in need of protective services and cannot be located, the AAA shall 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.
- Contacting PDA BPS to request a Lexis Nexis search.
- Collaborating with law enforcement, as appropriate.
- When 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

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taking 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 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 PS 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

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The PS Caseworker must make reasonable efforts to locate a “missing” older adult. The following actions must be well documented, by the PS Caseworker in the case record:

- attempts to contact the older adult 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 PDA BPS

a. 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 shall continue to act as the investigative agency 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 PS System 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 OAPSA 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.

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A case where an older adult is unable to be located shall be closed twenty (20) days from the date the missing person's report was filed with law enforcement.

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 closed once the AAA has satisfied all actions listed below.

b. When a Missing Person's Report Has NOT Been Filed

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 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 OAPSA Director that all required steps have been met; and
- When no new information has been obtained or law enforcement unable to locate the older adult.

c. 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, must be clearly and chronologically documented in the PS System.

N. Abbreviated Investigations

An abbreviated investigation is a shortened examination 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 shall be taken to complete an abbreviated investigation only when the PS Caseworker, PS Supervisor and the OAPSA Director have reviewed the previous investigations and have determined that an abbreviated investigation can be completed, which shall be journaled in the case record as having occurred.

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When investigative information resulting in untrustworthiness of the reporting is suspected and based on a pattern of unsubstantiated allegations by an individual, a AAA may consider an abbreviated investigation. AAAs are advised to clearly document their reasoning for the abbreviated investigation in these situations. 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.

The AAA is responsible to review all previous information gathered and ensure that the new RON does not contain any new allegations. The AAA may incorporate the most recent information obtained within the current investigation. 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 and infrequent.

There are times when multiple RONs are received, for the same older adult, alleging the same issues. There may be a family member or other involved party that repeatedly makes the same report to the AAA. Reference the multiple RON policy within this Chapter as applicable. 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.

IV. INVESTIGATIVE RESOLUTION

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.

The PS Caseworker shall make all reasonable efforts to complete an investigation of a RON as soon as possible. In cases of abuse and neglect a determination shall be made 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. All documentation must be included in the PS System.

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 shall be provided on the ISA in the PS System 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.

A PS Caseworker shall 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 promptly document in the Assessment, 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.

A. Substantiation

The PS Caseworker and PS Supervisor are responsible for determining if the alleged 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. Pursuant to §10225.103 and as defined under §15.2, an older adult in need of protective services is an incapacitated older adult located within the jurisdiction of the Commonwealth of Pennsylvania 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.

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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.

Pursuant to §10225.303(d) and §15.44(a), a case is substantiated when the investigation confirms the details in the RON and the older adult meets the definition of an older adult in need of PS. If the older adult is in need of protective services but refuses services, the case is still substantiated. In some instances, a case is substantiated based on the information provided in the RON and others are based on information and factors identified during the investigation. In either situation, the case shall be substantiated.

If the investigation is found to be substantiated, the PS Caseworker shall follow the policies and procedures under Delivery of Services section of this policy and procedural document in addition to statutory and regulatory requirements relating to service provision of paid and unpaid services to include any remediation action that detect, prevent, reduce, eliminate risk. Some examples of services include, but are not limited to:

- Informal supports
- Paid caregivers
- Training and Education
- Referrals for appropriate services

B. Unsubstantiation

When allegations of abuse, neglect, exploitation and/or abandonment are not confirmed at the time of the incident or during the course of an investigation, and/or the older adult does not meet the criteria or definition of an older adult in need of protective services outlined in §15.2, 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 redacted 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 “Delivery of Services” section of this policy and procedural document and §15.94 of the regulations.

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

Following an investigation, the AAA is to determine if the RON is substantiated or unsubstantiated. There may be legitimate times when a AAA is unable to determine if the case should be substantiated or unsubstantiated within the 20-day determination period. 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 determine an abuse and/or neglect investigation within 20 calendar days.

A final case disposition is to be marked as Unable to Determine on the assessment tool within the PS System when the AAA is unable to confirm the initial allegations made in the RON or determine that the older adult is in need of protective services due to following reasons:

- The older adult died during the investigation before enough information could be collected to make a determination.

Note: The Unable to Determine reason is not used when determination was made before the death of the older adult and prior to providing services and/or closing out the case.

- The older adult left the jurisdiction of Pennsylvania before enough information could be gathered to make a determination prior to leaving the jurisdiction of Pennsylvania.

Note: The Unable to Determine reason is not used when a determination was made, and the older adult left the jurisdiction of PA prior to providing services and/or closing out the case.

- The older adult is unable to be located.

If a AAA believes that they cannot determine for any reason other than those listed above, the PS Caseworker or PS Supervisor shall consult with PDA BPS (PDA Bureau of Protective Services Specialist).

V. SERVICE PROVISION FOR SUBSTANTIATED CASES

The goal of any protective service investigation and subsequent protective service plan is to detect, prevent, reduce and/or eliminate abuse, neglect, exploitation, and/or abandonment (ANEA). See §10225.309(2) and further outlined under §15.91(a). Defined in §10225.103 and further 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 shall document the refusal of the said plan, and the attempts made to encourage the older adult to accept services in accordance with §10225.304(b) and further defined under §15.81(5). The PS Caseworker must also document efforts to obtain the signed statement from the older adult refusing protective services or document unsuccessful efforts to obtain a signed statement. Details about service planning and provision of services can be found under §10225.309(2) and further defined under §§15.91-15.96 in the PS regulations.

Pursuant to §10225.304 and further outlined under §15.91(b), the AAA shall offer protective services on substantiated cases as follows: when an older adult requests the services; another interested person requests the services on behalf of an older adult; and after an investigation of a report, the AAA determines the older adult’s need for services.

Pursuant to §10225.303(d) and further defined under §15.92, once a case is substantiated, the PS Caseworker shall work with the older adult to conduct an assessment, develop a service plan, and arrange for the delivery of services to detect, prevent, reduce, or eliminate risk. An older adult has the right to accept the plan, accept parts of the plan or refuse the entire plan.

Arrangement of services includes coordinating the sources of least restrictive services and taking reasonable steps to assure that services necessary to achieve the goals in the service plan are provided in accordance with §15.93. Prior to terminating a case, an in-person reassessment of an older adult shall be conducted to evaluate whether the least restrictive services provided have been effective in detecting, preventing, reducing, or eliminating risk.

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A. Assessment

The face-to-face assessment is the first step in providing protective services to an older adult. The purpose of an assessment is to inform the PS Caseworker in developing a PS service plan designed to address the risk(s) posed to the older adult.

Pursuant to §15.92, when a report is substantiated or if an assessment is needed to determine substantiation, the PS Caseworker shall, with the consent of the older adult, complete a timely assessment. If the older adult does not consent to the assessment, the AAA may petition the court for an order to require access pursuant to §10225.304(e) and further detailed under §15.61 or §10225.307 and further detailed under §15.71.

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 PS Caseworker's judgement. The older adult's responses should be placed in quotes. The PS 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."

B. Requirements of a Service Plan of a Substantiated Case

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 authorized representative, and 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,

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transportation, education, resources, referrals, and other services or activities that may not have a cost associated to the AAA.

An older adult does not need to meet the requirements for Community Health Choices (CHC) in order to be eligible for a protective services (PS) service plan. PS service plans are not contingent upon income or assets but are based upon needs identified in the assessment and addressed within the service plan.

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 service plan is then presented to the older adult for their consent to implement the services within 14 calendar days of identifying services are needed. 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 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 are 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 System care plan journal.

The older adult can choose to:

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

In instances in which an older adult's cognitive capacity is in question, the PS Caseworker may coordinate services with an authorized representative, other family, significant other, or another designated individual to reduce or eliminate risk.

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

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plan must offer the least restrictive interventions to the older adult and be cooperatively developed by the AAA, the older adult or their authorized representative 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.

3. Service Plan Consent

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. The service plan should be discussed with the older adult within 14 days from when services were determined to be needed.

4. Service Plan Refusal

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 enjoining interference.

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.

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PS Caseworkers can protect the right for self-determination by not forcing protective services upon an older adult who has refused services. Additionally, they can ensure least restrictive alternatives were offered, included the older adult into the PS service plan development, and documenting the risks and possible interventions were repeatedly explained to the older adult. The PS Caseworker must explain the risks associated with refusing services to the older adult. PS Caseworkers must carefully document all efforts to offer services in the PS System.

5. 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 as a substantiated case with no current need for protective services. Note, this termination reason should be minimally utilized. An older adult shall always be informed of the risk reduction. If any verification needs to occur to ensure risk reduction, then this risk reduction must be documented on a care plan document and reviewed with the older adult. Examples include:

- Staff retrained/ re-education/ termination
- Revised facility care plan
- Risk reduction measures taken in the community by a third party

C. Delivery of Services

The AAA, with the consent of the older adult shall provide for the implementation of the course of action recommended in the service plan.

Pursuant to §15.94(a) protective services can be delivered by:

- Direct provision of services by the agency
- Purchasing services from another agency
- Referral to another agency
- Provision of services by family or friends
- A combination of these or other methods

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In addition, to be included in the service plan, 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 “soft 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)

When arranging services for the service plan, 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.

If part of the agreed upon service plan is to refer a case to law enforcement, all pertinent information provided to law enforcement shall be a copy of the relevant records and must be accompanied by a cover letter indicating the authority of PS to investigate allegations of elder abuse, a summary of the service 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:

- 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.

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If any service is provided during the investigative process, excluding a RON and an investigation, the service should be documented within the PS System.

D. Purchasing Services

A AAA may purchase services to detect, prevent, reduce and/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 at the county level. PDA funds the AAAs through a block grant allowing for maximum funding flexibility and discretion at the local level.

If a AAA exhausts available supports to provide necessary services through existing agency resources, the AAA may utilize other providers through the coordination of public and private entitlements and resources. The AAA may purchase those services on a time-limited basis pursuant to §10225.309(2)(viii) and as defined by regulations, §15.113(b) and (c), for thirty (30) calendar days, which may only be renewed with adequate justification documented in the case record. The AAA is no longer required to notify PDA BPS when services need to be justifiably extended.

It is important to note, services and risk mitigation shall not be delayed due to exploring other payment options.

E. Case Management

1. Case Management

Case management includes the coordination 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).

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)

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- Completing referrals for service

2. Reassessments

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
- the older adult is being terminated from protective services

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.

It would be acceptable to close a protective services case without completing a reassessment in the following circumstances:

- death of an older adult
- the older adult is no longer in the jurisdiction of PA
- no services were implemented
- the withdrawal of consent by the older adult

If an investigation is substantiated, but there is No Need for protective services (no service plan was offered for hard or soft services), no reassessment is 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 the PS System. 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

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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 case record.

F. Perpetrator Designation

Pursuant to §10225.308(b) and further detailed under §15.82, an alleged perpetrator is a person who, because of a protective services investigation, is identified to be an offender of abuse, neglect, exploitation, or abandonment (ANEA) of an older adult.

The AAA shall make an attempt to interview the alleged perpetrator. During the investigation of a report (RON), the AAA may make an attempt to interview the alleged abuser to provide him/her an opportunity to provide their account of the allegations during their investigation. However, an alleged perpetrator has a legal right to remain silent and decline an interview with the AAA. The failure to interview an alleged perpetrator does not preclude the AAA from designating an individual as a perpetrator.

An individual shall only be designated a perpetrator when a protective services investigation has determined the individual to be a perpetrator of abuse, neglect, exploitation, or abandonment, as a result of the evidence discovered during the investigation. The evidence must be objective and show that the individual has willfully, knowingly, and/or recklessly engaged in conduct that constitutes abuse, neglect, abandonment, or exploitation of an older adult.

Perpetrator Designation Notification

An Alleged Abuser is entitled to notification of a AAA's designation of them as a designated perpetrator. The AAA should utilize the standardized PDA issued perpetrator designation letter. A AAA must provide the Alleged Abuser a Perpetrator Designation Notification letter which includes a written summary of the allegation(s) against them as a result of the investigation. The information must include the reason the AAA designated them a perpetrator of ANEA.

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The Perpetrator Designation Notification letter must include:

- The name of the Perpetrator
- The designation against the Perpetrator
- The name of the older adult the AAA has determined that the perpetrator has abused, neglected, exploited, or abandoned (ANEA)
- A brief summary of the allegations against them (note: this information is limited to details contained in the RON or otherwise in the investigation that relates to the Perpetrator or their actions and is the reason the AAA designated them as a perpetrator)
- The Perpetrator's appeal rights – See Individual Rights section within this policy and procedure document.

The Perpetrator Designation Notification letter shall not include:

- A copy of the RON.
- Details contained in the RON that are not about the perpetrator.
- Confidential information under §15.105 and §15.157.

Due process entitles a person to be informed by the AAA, of the nature and cause of allegations against them. Failure to include a summary denies a Perpetrator the perpetrator the necessary information to make a defense.

The AAA does not have authority to provide a copy of the perpetrator notification to anyone other than the perpetrator. However, except 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 accordingly, relevant records may be provided according to §15.157. The AAA must upload the Attorney General referral form to the case record within the PS System when the case has been referred to the Attorney General.

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Additional Information

A designated perpetrator is entitled to request, and a AAA must provide, additional information contained in the RON. Additionally, information provided from the report of need (RON) shall **only** be the allegations against the individual designated as a perpetrator.

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

This additional information is limited by confidentiality and the rights of the protective services consumers.

1. No Perpetrator Designation:

The perpetrator designation was intended for those individuals who the AAA determined, as a result of a comprehensive protective services investigation, were willfully, knowingly and/or recklessly responsible for the abuse, neglect, abandonment, or financial exploitation of an older adult. A perpetrator is not named when the case is unsubstantiated.

When an individual is identified, through clear and convincing evidence, as committing abuse, neglect, exploitation and/or abandonment, however written notification is delayed as risk is not yet mitigated for the older adult, this must be well documented in the notation section of the ISA. Perpetrator designation is reliant on the findings of the investigation, not dependent on whether a perpetrator was interviewed.

A AAA may delay providing a perpetrator designation letter to an alleged perpetrator that has direct contact with the older adult. When a AAA has determined, based on the specific facts, that providing a perpetrator designation letter to an alleged perpetrator (AP) may place the older adult at an increased risk of harm by the alleged perpetrator (AP). This delay includes sending a perpetrator designation letter and a delay in personally notifying the AP. The AAA must document the identity of the AP and the reason for the delayed perpetrator designation within the case record.

2. Perpetrator is a Juvenile

When an alleged perpetrator is a minor (under the age of 18), the AAA's initial steps are 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.

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3. Naming a Facility as a Perpetrator

When 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 facility 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 is to 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 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. Redaction or Removal of Perpetrator Identifiable Information Upon Case Resolution

Designated Perpetrator Identifiable Information Remains When:

The identifiable information of an alleged perpetrator may only be maintained in the AAA's records after the case closure when that individual has been designated as a perpetrator and the matter has not been appealed or when the designation has been upheld by the Department or BHA.

Designated Perpetrator Identifiable Information Shall be Removed or Redacted When:

- If an individual has been alleged to be a perpetrator but upon investigation has been determined to not be a perpetrator, their identifiable information shall be immediately removed or redacted from the AAA's records.
- If a perpetrator designation has not been upheld by the Department or BHA on appeal, the perpetrator designation shall be removed from the AAA's records and their identifiable information should be redacted or removed from the AAA's records.
- If an investigation is substantiated and a perpetrator is not being designated, perpetrator characteristics may not be recorded in the perpetrator section of the ISA. The alleged perpetrator information must be redacted from the case record (including RON, ISA, and Care Plan Journal entries).

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§ 15.43. Resolution of unsubstantiated reports.

- (a) When, upon investigation of a report, it is determined that there is no need for protective services, the report shall be classified as unsubstantiated.
- (b) A case opened by an unsubstantiated report shall be closed and information identifying the person who made the report and the alleged perpetrator of abuse, if applicable, shall be immediately deleted from the case record.
- (c) For the purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, the name of the person reported to need protective services and other information relevant to the circumstances which led to the report may be maintained for 6 months in a separate locked file accessible only to limited authorized staff for review when it is necessary to establish that a previous report was made. At the end of 6 months, case records maintained under this subsection shall be destroyed unless additional reports lead to their being reopened.
- (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 availability of services through the area agency on aging service management system or another appropriate community agency” (15.43)

If an investigation is substantiated and a perpetrator is not being designated, OR a case is unsubstantiated, perpetrator characteristics may not be recorded in the perpetrator section of the ISA. The alleged perpetrator information must be redacted from the case record (including RON, ISA, and Care Plan Journal entries) immediately prior to case closure.

5. Complaint and Appeal Process

The purpose of the complaint and appeal process is to provide the individual the opportunity to challenge the perpetrator designation. The process provided under 6 Pa Code Chapter 3 (relating to fair hearings and appeals) applies to perpetrators appealing the designation.

G. Case Closure

1. Termination of Protective Services

An older adult shall remain 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. Pursuant to §15.113, if protective services are needed beyond thirty (30) calendar days, the AAA shall document which services are needed and the justification for why the services are needed beyond 30 calendar days and are only available through purchase. The AAA shall continue to pursue alternate ways to provide the services and terminate the purchase of services as soon as possible.

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Analysis of whether the interventions put into place have reduced or eliminated the identified risk(s) posed to the older adult shall 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 PS 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 PS 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 and obtain a signature from the older adult or authorized representative (if older adult lacks capacity) of the pending termination of protective services. If an individual, authorized representative, facility, or entity 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 case file. The involvement of the older adult, significant others and the PS Caseworker shall be clearly documented.

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If the AAA is unable to provide termination notification due to inability to reach or locate the older adult or authorized representative, all efforts to notify the older adult and attempt to obtain written acknowledgement of termination must be documented in the case narrative section of the case file.

2. Protective Services Cases that Require Ongoing Services

The PS Caseworker must actively assess whether the older adult still meets the criteria for protective services. Once the risk has been mitigated or eliminated and the older adult no longer meets the criteria for protective services, the case shall be closed. As applicable, assessment of ongoing service needs is to be completed by the AAA prior to transitioning the individual to care management. Consideration should be given to ensure the timely and efficient implementation of delivery of service. If the older adult requires ongoing services through care management, information shall only be disclosed as outlined under §15.105. 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.

3. Termination of PS after Guardian appointed

When a guardianship petition is 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. 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 active 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 face-to-face visit to the older 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 is to be reassessed after the permanent guardian is appointed to assure that all necessary services are being provided. The PS Caseworker is to take reasonable steps to assist the guardian in this transition period prior to terminating protective services. Part of the resolution in a

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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 is to be completed, and the activity documented in the protective services care plan. At that time, the protective services care program is terminated.

The permanent guardian is to be provided the protective services termination letter. Follow the steps for terminating a case as it relates to the regulations and this chapter.

4. Transferring Out of County

As soon as it is known that the older adult has moved to another county, the PS Caseworker shall contact the AAA in that service area and coordinate protective services involvement. If the move is found to be permanent, the AAA where the older adult now resides is to assume full responsibility of the case. If there are incomplete protective services activities in the original county, the original AAA is to remain involved to complete those activities and assist where necessary. A formal transfer of the case from the initial AAA to the second AAA is to be documented in the case file. When this occurs, all information obtained by the original AAA shall be entered and uploaded accordingly in the PS System prior to transferring to the county where the older adult has relocated. The case record must reflect the transfer of the older adult to another AAA.

5. Transferring Out of State

Pursuant to §15.157 (b)(3), 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. 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). The AAA can also indicate where to obtain pertinent information.

6. Death of An 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,

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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 closing the case.

If there is no nexus between the older adult's death and the need for protective services, the case shall be terminated.

H. Individual Rights

1. Rights of Protective Service Consumers

Pursuant to §10225.308(a) and further detailed under §15.81(1) provides for the following rights for the older adult:

- (i) The agency shall discreetly notify the older adult during the investigation that a report of need for protective services has been made and shall provide the older adult with a brief summary of the nature of the report. The PS Caseworker performing the investigation shall determine when and how this notification is accomplished. Documentation of this notification is placed in the older adult's protective services care plan journal.
 - (1) 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 shall be completed at an appropriate point during the investigation.
- (ii) If the older adult requests additional information contained in the record, the agency shall provide the information subject to the requirements in §15.105 and §15.157.
- (iii) A denial of services by the Department or an authorized agency under this chapter may be appealed under the Chapter 3 (relating to fair hearings and appeals).
- (iv) Nothing in this chapter limits the rights of an older adult to file a petition under 23 Pa.C.S. Chapter 61 (relating to the Protection from Abuse Act).
- (v) An older adult determined to need protective services has the right to refuse protective services except as provided under a court order. The agency shall obtain, when possible, the older adult's signed statement refusing protective services or document unsuccessful efforts to obtain a signed statement.
- (vi) An older adult has the right to legal counsel when the agency petitions the court for emergency or other orders to provide protective services without the older adult's consent. The act provides that if an older adult is unable to provide for counsel, counsel shall be appointed by the court. Under

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- §15.71 (relating to involuntary intervention by emergency court order), the agency is required to take steps to involve counsel when emergency petitions are filed.
- (vii) As provided under §§ 15.101—15.105 and §15.157 (relating to confidentiality), an older adult has the right to the confidentiality of information received and maintained by the agency in reports, investigations, service plans and other elements of a case record.
- (viii) The OAPSA Consumer Rights Form shall be provided to and reviewed with the older adult. A signed form shall be uploaded to the PS System and noted in the consumer record.

2. Rights of Alleged Abusers

An individual determined to be a perpetrator of abuse, neglect, exploitation and/or abandonment is entitled to notification of their status as a designated perpetrator, a summary of the allegations against them, additional information contained in the report of need upon their request, and an appeal process.

An individual designated as a perpetrator is entitled to:

- Notification at the conclusion of the protective services investigation that a RON with allegations against him/her was received.
- Receive a summary of the allegations made against him/her.
- Upon providing a written request, receive a written copy of information contained in the report, except the information that is prohibited from being disclosed.
- Prohibitive information is information that would identify the person who made the report or a person who cooperated in a subsequent investigation.
- File an appeal to challenge the AAA's findings resulting from their investigation of a report (RON).

VI. 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. Completing journal notes, securing supporting documentation, and completing all required PS System forms is required to justify all actions or inaction, data collection and any referrals to law enforcement officials. 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. Supporting documentation should be uploaded in the PS System as a file attachment.

PS Caseworkers are required to follow the guidelines and timeframes below to ensure timely documentation of case and program activity in the PS System. 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 the supervisor or supervisor’s clerical support staff.

If the AAA develops an extensive backlog of cases open longer than 60 days in the PS System, the AAA shall notify PDA BPS and discuss an action plan for resolution.

Any case documentation that does not fall under any of the types of cases/case record entries outlined below must be completed within ten (10) calendar days from the first date of the activity. All journal entries shall be signed and dated by the individual entering the note. For example, if clerical worker Paul enters a note on behalf of case worker Sally, then entry should read as such – Note entered by Paul Jones (clerical worker) on behalf of case worker Sally Smith.

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DOCUMENTATION TIMEFRAME DIRECTIVE:

Type of Case/Case Record Entry: Emergency cases or situations

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 by the PS Supervisor or Supervisor clerical support staff no later than 24 hours after the guidance/instructions was completed.

Type of Case/Case Record Entry: Priority cases

Documentation Guideline: As soon as possible, but no later than 3 calendar days, 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 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, or telephone calls.

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

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 by supervisor or supervisor clerical support staff.

A. Documentation and Procedural Standards to Ensure Ongoing Review of Open Cases

1. Purpose

The primary objective of this policy is to ensure the thorough and consistent review of open Older Adult Protective Service cases and ensure supervisory oversight. This policy aims to maintain accountability, provide guidance, and mitigate risks to vulnerable individuals. This policy is crucial for maintaining the integrity of Older Adult Protective Cases, safeguarding vulnerable individuals, and ensuring the highest standards of accountability and oversight.

2. Procedure

Monthly Supervisory Review:

All Older Adult Protective Service Cases must undergo **minimal** monthly discussions between the assigned case worker and their supervisor. The purpose of these discussions is to assess the status of each case, provide guidance, ensure accountability, and recommend alternative interventions and resources if necessary. Documentation of these discussions is essential to track the progress and ensure no cases are overlooked or forgotten. During monthly supervision, there shall be the component of evaluation of any potential risks, including signs of neglect, abuse, financial exploitation, or suspicious circumstances, steps taken to mitigate risks and ensure the older adult's safety must be addressed. The Supervisor or Supervisor's clerical support staff will be responsible for entering the note documenting the supervisory session occurred.

3. Supervisory Involvement

Supervisors shall maintain a documented presence throughout the duration of each case. Clear evidence of supervisory interaction, directives, and recommendations should be evident throughout the history of the open case. Supervisory involvement shall be evident at the time of case closure, ensuring a comprehensive understanding of the case's disposition and risk reduction when necessary.

4. Accountability and Risk Mitigation

Consistent documentation of supervisory interactions fosters a superior sense of accountability. Supervisors must be aware of the disposition of each case before closure to ensure proper oversight and risk mitigation, reduction and/or elimination. This policy aims to prevent cases from being failed to be noticed, thus resulting in a possible undesirable outcome.

5. Implementation and Enforcement

All supervisors and case managers are required to adhere to this policy without exceptions. Regular audits may be conducted to ensure compliance with the policy.

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B. Documenting Investigative Findings, Service Deliveries and Reassessments

Investigative findings pursuant to §15.42(d), cases regarding abuse and neglect shall have a determination of substantiated or unsubstantiated, documented within twenty (20) days. Documentation shall be maintained on the designated assessment tool within the PS System.

Pursuant to §15.2, §15.93 and §15.94, substantiated cases, when applicable, shall have written service plans developed to address safety and risk such as identified needs, goals to be achieved, and specific services (hard and soft) to support goal attainment. The written service plan shall be developed and discussed with the consumer or other authorized representative(s) within 14 days of determining services are needed. The service plan shall be person-centered, trauma-informed (as applicable), and shall contain services that include the least restrictive interventions. The documentation shall be completed on the OAPSA Service Plan for PS And Informed Consent Form and uploaded to the PS System as a file attachment.

Pursuant to §15.95(c), reassessments shall be completed for applicable, substantiated cases prior to the case being closed. The reassessment shall be conducted upon significant changes to the older adult's condition, and/or to assess that safety and risk have been reduced and/or eliminated prior to case closure. The final reassessment shall contain information explaining the reason for case closure. Documentation shall be maintained on the designated reassessment tool within the PS System.

An investigation is considered complete when a determination has been made, and all areas of abuse investigated. A case is considered complete when a determination has been made, ANEA has been investigated, and as applicable a service plan has been offered, a reassessment was completed, and risk was reduced or eliminated.

C. Confidentiality

All PS staff 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.

Due diligence shall be taken to utilize the PS System access for authorized usage only and not for other purposes.

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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.

1. Email Correspondence and Confidentiality Requirements

The purpose of this policy is to describe the requirements for correspondence sent to and from the PDA Protective Services Office. All AAA staff must create and follow internal policies developed specifically for confidentiality as it relates to both internal and external recipients.

All email correspondence sent to the PDA BPS email, is not to contain Personal Identifying Information (PII). Instead, AAAs should cite the SAMS ID number, first and last initials, the date of the PS care enrollment, and all attachments are to be included in the PS System.

In instances where it is necessary to disclose personal identifying information in the body of the email or attached files, the email must be sent encrypted. When encrypted, separate instructions to access are provided, the subject of the email shall not contain any personal identifying information in the subject line of the email.

D. Maintenance of Records

All protective services case records in any form, including electronic case files must be protected, kept secured and separated from all other records. The records must be maintained in a secure environment. Confidentiality, tracking and storage of records is required by regulations (§15.101-15.105).

As required by §15.12(b)(6), under the protective service plan provision, the AAA shall 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. As required by §15.12(b)(6), under the protective service plan provision, the AAA shall have a plan to assure the privacy and confidentiality of older adults receiving protective services..

1. Deletions in the Case Record

a. Unsubstantiated Case & No Need Reports

When RONS are categorized as a No Need or 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.).

- Case records (both physical and PS System) categorized as Unsubstantiated or No Need shall be purged and destroyed after six (6) months from the date the report is unsubstantiated and closed or determined to be a No Need. Refer to the following exceptions:
 - Additional report(s) received within the six (6) month retention period will change the date of when the previous case records can be purged and destroyed:
 - A Subsequent 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 Subsequent 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 Subsequent RON determined to be Substantiated is Received: The new Substantiated case record and previous Unsubstantiated case record and/or report categorized as a No Need will be retained for three (3) years after the new Substantiated case was closed or until any pending or threatened litigation regarding a case is resolved whichever is longer.

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

b. Substantiated

Case records designated as Substantiated shall be purged and destroyed after 3 years from the date of case closure or until any pending or threatened litigation regarding a case is resolved whichever is longer. Additionally, if a new substantiated report is received during the three-year retention period, the case must follow the regular retention policy and shall be purged and destroyed after 3 years from the date of closure of the case opened from the new substantiated report. However, if there is any litigation, claim or audit begins prior to the expiration of the three-year retention period, the case record shall be retained until all litigation, claim or audit findings involving the records have been resolved. An exception being, when A Subsequent 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 categorized as a No Need 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.

VII. REVISION HISTORY AND IMPLEMENTATION DATE

This publication was initially released on September 30, 2021, and re-released on October 17, 2024.