A close-up photograph of an elderly person's hand, showing wrinkled skin and prominent veins, being held gently by a younger person's hand. The background is blurred, showing other people's hands, suggesting a supportive or caring environment.

Elder Abuse in Kentucky 2006 Annual Report

A Joint Report of the
Cabinet for Health and Family Services and
The Kentucky Elder Abuse Committee
established under House Bill 298

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Dedication

This report is respectfully dedicated to all of the senior and vulnerable adult citizens of Kentucky; as well as all of the victims of Elder Abuse, past, present, and unfortunately those yet to come to the attention of us all.

Elder Abuse Committee

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Executive Summary

The exact numbers regarding the prevalence of Elder Abuse across the United States is unknown. The reasons for this are simple; (1) definitions for Elder Abuse vary greatly from state to state; (2) there is no uniformed reporting system to capture the data; and (3) comprehensive national data is not currently being collected, (*National Center on Elder Abuse ; Elder Abuse Prevalence and Incidence, 2005*). The issue of Elder Abuse Awareness largely remains where Child Abuse Awareness was 30-40 years ago. U.S. Senator, Orin Hatch stated, "Few pressing social issues have been as systematically ignored as Elder Abuse. In fact, 25 years of congressional hearings on the devastating effects of elder abuse have found this problem to be a 'disgrace' and a 'burgeoning national scandal.' Yet, to date, no federal legislation has been enacted to address elder abuse in a comprehensive manner" (*Elder Justice Act: 2006 Law Protecting Nursing Home Residents*).

According to the best available estimates, between 1 and 2 million Americans age 65 or older have been injured, exploited or otherwise mistreated by someone whom they depended on for care or protection. (*Elder Mistreatment; Abuse, Neglect and Exploitation in an Aging America, 2003. Washington D.C.: National Research Council Panel to Review Risk and Prevalence of Elder Abuse and Neglect.*) However, the Department of Health and Human Services suggests that the number ranges from 500,000 to 5 million seniors in the U.S. that are abused (*Elder Justice Act: 2006 Law Protecting Nursing Home residents*). One category of Elder Abuse that is grossly underreported is that of financial exploitation. The most current estimates place the overall reporting of financial exploitation at only 1 in 25 cases, suggesting that there may be at least 5 million financial abuse victims each year. (*Wasik, John F 2000. "The Fleecing of America's Elderly," Consumers Digest, March/April*). Recent independent research indicates that only 1 in 14 incidents of abuse are brought to the attention of Adult Protective Services, not including incidents of self-neglect. (*Pillemer, Karl and David Finkelhor, 1988. "The Prevalence of Elder Abuse: A Random Sample Survey, "The Gerontologist, 28:51-57*). Statistical data from the 2004 survey, shows that reports of adult abuse are up 19.7% from the 2000 national survey conducted, and substantiated cases of abuse in adults rose 15.6%. (*Teaster, P.B., Otto, J.M., Dugar, T.D., Mendiondo, M.S., Abner, E.L., Cecil, K.A., The 2004 Survey if Adult Protective Services Abuse of Adults 60 Years of Age and Older*).

According to the US Census Bureau, the first of the baby boomers (those born between 1946 and 1964) will begin to turn 65 in 2011. The older population will double from 36 million in 2003, to 72 million in 2030. By 2050, the older population is projected to number 86.7 million. (*Teaster, P.B. et al, 2004 Survey of State Adult Protective Services: Abuse of Adults 60 Years of Age and Older, and the US Census Bureau*). We must begin now to create and implement services and resources that will enable us to successfully meet the needs and challenges that this change in demographics will most certainly bring about. One probability we will be faced with, is that, the older the citizens we have as a country and as a state, the more instances we will have of Elder Abuse, with the oldest of the old being at most risk. To support this projection, the 2004 Survey on elder abuse found that 65.7% of elder abuse victims aged 60+ were female, further breaking down that statistic by age of victim, the study also found that the likelihood of abuse increases with age, 20.8% of victims were between 60-69, 36.5% of victims were between the ages of 70-79, and 42.8% of victims were over the age of 80. (*Teaster, P.B., et al, 2004*

Survey of State Adult Protective Services: Abuse of Adults 60 Years of Age and Older). This same study further found that 89.3% of substantiated abuse reports occurred in domestic settings, 6.2% occurred in long term care settings, and 1.8% occurred in "other" locations, which included hotels, workplace, and assisted living facilities, and that an overwhelming 57.6% of substantiated cases were due to self-neglect or care-giver neglect. Given that the vast majority of elder abuse cases, reported to APS, occur in a domestic setting, it is no surprise that in 2003 32.6 % of perpetrators were adult children of the victim, followed by 21.5% listed as other family members. Spouses and intimate partners accounted for 11.3% of elder abuse perpetrators (*Teaster, P.B., et al, 2004 Survey of State Adult Protective Services*).

Adult Protective Services was established under Title XX of the Social Security Act of 1975; it was and is a federally mandated program with little or no funding attached (*Teaster, P.B., Otto, J.M Dugar, T.D., Meniondo, M.S., Abner, E.L., Cecil, K.A. (2006) The 2004 Survey of State Adult Protective Services: Abuse of adults 60 years of age and older. Report to the National Center on Elder Abuse, Administration on Aging, Washington, D.C., 45p*). There are Adult Protective Services units in all 50 states, and they typically are the lead investigative agency in instances of abuse, neglect, and exploitation. Although there is hope for future Federal legislation, that would mandate direct funding for APS, it remains true today that APS across the country is insufficiently funded, and under staffed. This is particularly troubling given the impact that our rapidly aging population will have on APS caseloads and current resources. In a statement released by the Elder Justice Coalition, former U.S. Senator John B. Breaux, was quoted as saying "At a time when reported cases of elder abuse have risen by more than 60 percent in the past decade, it remains disturbing that less than 2 percent of all funds spent on abuse protection at the federal level go to elder abuse prevention" (*National Center on Elder Abuse, Elder Justice Act 2006*). Since the early 1990's, federal elder abuse prevention funds have remained relatively constant at slightly over \$5 million. Funds are divided on the basis of the 60 and older population of each state (*National Center on Elder Abuse: Older Americans Act: Title VII Vulnerable Elder Rights Protection*).

In an effort to be on the leading edge of protecting our most vulnerable citizens, Kentucky legislators and Cabinet leadership created and passed HB 298 during the 2005 General Assembly. This was indeed a victory for all of Kentucky. HB 298 mandated collaborative efforts through a multi agency response to Elder Abuse. This was achieved by enhancing KRS Chapter 209, requiring specific training on Elder Abuse for professionals in a variety of agencies, and it re-established the statewide Elder Abuse Committee pursuant to KRS 209.005:

(2) *The committee shall address issues of prevention, intervention, investigation, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provides services to the elder population, including, but not limited to:*

- (a) Senior citizen centers;*
- (b) Local governmental human service groups;*
- (c) The Sanders-Brown Center on Aging at the University of Kentucky;*
- (d) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.*

(3) *The committee shall:*

- (a) Recommend a model protocol for the joint multidisciplinary investigation of reports of suspected abuse, neglect, and exploitation of the elderly;*

(b) Recommend practices to assure timely reporting of referrals of abuse, neglect, exploitation required under KRS 209.030(12);

(c) Explore the need for a comprehensive statewide directory of services for the elderly;

(d) Enhance existing public awareness campaigns for elder abuse and neglect; and

(e) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.

(4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.”

The work of the committee has been accomplished through the following subcommittees:

- Data
- Guardianship
- Public Awareness
- Investigative
- Training

The Elder Abuse Committee decided just prior to the writing of this report, to go beyond our original scope and add a sixth sub-committee, which will address resource development in individual communities.

This report covers fiscal year '06 (July 1, 2005 – June 30, 2006) and is a joint effort between The Cabinet for Health and Family Services (CHFS) and the Elder Abuse Committee. We have worked diligently to expand upon the information contained in the first report submitted by the Elder Abuse Committee and The Cabinet for Health and Family Services which covered fiscal year '05, and provide a more comprehensive look at the state of Elder Abuse in Kentucky. The accomplishments achieved this past year are detailed in the “Current Status of Adult Protection in Kentucky” section of this report which begins on page ten of this report. This year’s report also includes a summary of policy recommendations to be considered. These recommendations begin on page fifteen.

The final draft of this report, after being reviewed and approved by the Elder Abuse Committee, and Cabinet leadership, will be forwarded to Governor Fletcher and the Legislative Research Commission as required by statute. Copies of this report are also available to the professional community and the general public on the Elder Abuse Awareness Website at <http://chfs.ky.gov/dcbs/dpp/ea/> .

Passed Federal Legislation 2006

Older Americans Act

Historical overview of the Act

Dramatic increases in America's older population strongly suggest the need for clear and coherent policies on the aged and aging. Never before, in mankind's history, have so many lived for so long. Parallel, if not basic to this growth of the aged population, are the equally rapid changes in family structures, in living arrangements and housing, in norms of employment and retirement and in needs for supportive services.

Much activity on the part of federal, state, and local governments on behalf of older people preceded the passage of the Older Americans Act of 1965. The first major, and still landmark, piece of legislation in which the federal government specially addressed the needs of America's elderly was the 1935 Social Security Act. The main intent of Social Security was "to provide protection as a matter of right for the American worker in retirement." It was not until 27 years later, in 1962, that services to the elderly were provided under several titles of the Social Security Act. Other amendments increased benefits substantially, established Medicare and Medicaid, lowered the retirement age for workers from age 65 to 62, and liberalized the requirements for fully insured status.

The beginnings of what later was enacted as the Older Americans Act have been traced to the 1961 White House Conference on Aging. A key issue raised during the conference was health care. Pressure for a U.S. Department on Aging mounted in both houses of Congress soon after the White House Conference. In 1962, Senator McNamara (D-MI), chairman of the Senate Special Committee on Aging and Congressman Fogarty both introduced bills to create a permanent and independent three-member Commission on Aging, attached to the Presidency, to serve as the focal point within federal government for developing national policies on the aged. Their argument for establishing such a structure was that it would cut across the functional responsibilities of many departments and agencies which serve the elderly. No action was taken on either of their proposals until 1965. (*Bay Area Agency on Aging, Inc., bayaa.org*)

Current Status of the Older Americans Act

A five-year reauthorization of the Older Americans Act was signed on October 2, 2006 and sent to President Bush. On October 17, 2006, President Bush signed the Older Americans Act Reauthorization Bill into law. According to the National Council on Aging, the legislation not only reauthorizes the program, but further strengthens services offered.

Area Agencies on Aging were established under the Older American Act in 1973 to respond to the needs of Americans ages 60 and over in every local community. All persons age 60 and older are eligible for services under Older Americans Act programs.

The Older Americans Act also helps fund the Native American aging programs, known as "Title VI", to meet the unique needs of older American Indians, Eskimos, and Hawaiians.

Services available through the aging agencies and Title VI fall into five broad categories: information and access services, community-based services, in-home services, housing and elder rights.

Categories and some examples of programs offered include:

- Nutrition: Home-delivered meals, group meals and nutritional counseling.
- In-Home Assistance: Support for homebound elderly, including housekeeping, domestic chores, personal care and visitation.
- Transportation: Rides to essential destinations such as nutrition sites, senior centers, health appointments and grocery shopping.
- Senior Centers: Places to go for nutrition services, employment services and health screening, as well as a venue for social interaction and recreation.
- Information, Referral and Assistance: Help getting information about federal, state or local services.
- Benefits Counseling/Legal Assistance: Help provided by trained benefits counselors on public and private benefits.
- Care Coordination: Arrangement and coordination of services.
- Nursing Home Ombudsman: Trained and certified volunteer advocates, supervised by professional, who visit nursing facilities and work with the residents, families and facility employees.
- Health Maintenance: Coordination or provision of health services including, health screening, oral health and optical services, and proper use of prescription drugs.
- Other Assistance: Services such as home repair/modification, adult day care, emergency response systems, respite services and escort service.

Service availability is determined by the regional needs of older persons within a service area, the level of funding available to support these services and availability of providers to deliver these services. When program resources are limited, priority is given to those in greatest economic and social need; however, no income requirements must be met. *(AgNews, News and Public Affairs, Texas A&M University Agriculture Program Oct. 10, 2006)*

Current Status of Adult Protection in Kentucky

The Cabinet for Health and Family Services received 46,193 reports of Adult Abuse during the State Fiscal Year (SFY) 2006. This number represents a decrease of 3.4% over SFY 05. The number of reports for adults over 60 totaled 9,387. This number represents a 2.6% increase from SFY 2005.

The National average for substantiated cases of abuse, neglect and exploitation involving adults has remained steady at about 47%. Kentucky saw a substantiation rate of 30% in 2005, and 29% in 2006 (SFY). With the development and implementation of improved training for staff, the addition of designated APS staff, increases in statewide public awareness campaigns as well as an increase in the funding to support public awareness campaigns and materials, Kentucky would likely see a significant increase in the rate of substantiated cases, drawing them closer in line to that of the National statistics.

Cases that resulted in criminal charges rose from 15.4% in SFY 2005, to 17.4% during SFY 2006. This can be directly attributed to the education and improvements that stem from the development and dissemination of the Office of Attorney General's Prosecutor's Manual; and with the added enhancement of the DCBS electronic 115, it is projected that we will also see an even greater increase in the number of cases prosecuted under KRS chapter 209. The electronic 115 allows for a more effective and efficient mode for communication about, and awareness of, cases that have the potential for criminal charges. Additionally the electronic 115 allows for improved monitoring and tracking of case dispositions.

Kentucky saw a 5.3% increase in caretaker neglect, and a 7.5% increase in financial exploitation for adults 60 and over. Also on the rise were investigations for self neglect, which rose 7.3% during the past fiscal year. These numbers can be attributed to several factors. The first being, that with our increased efforts to raise public awareness and improve training on the issues of Elder Abuse, we have become better able to recognize and respond to situations involving abuse, neglect and exploitation. The second factor being, that an increasing number of adults are choosing to age in place. One result from "aging in place", is that often times the socialization and connective interaction with others is missing, thus leaving the adult in isolation with no avenue to access help when it is most needed, which eventually lends itself to situations of self neglect, abuse and exploitation. Given the increases in the number of cases involving abuse, neglect, and exploitation of our elders, it is with no surprise that the Coordinating Councils on Elder Abuse continue to be very effective community resource tools and play an instrumental role in promoting public awareness, building community partnerships and creating services that act not only as prevention pieces, but also provide crucial resources in instances where abuse, neglect, or exploitation have already been identified.

While the increase in total number of cases in SFY 06 over SFY 05 may not be statistically impressive (2.6%), one can safely assume that the rapid increase of persons age 60 and over will be tantamount to a social Tsunami. We must act now to prepare ourselves, and our communities for this change, by creating resources and expanding our staff to meet the needs that this wave will most decidedly bring about. The increase in the number of cases DCBS receives provides further evidence for the need of

additional **designated** Adult Protective Services staff. The Cabinet for Health and Family Services committed itself to provide 25 additional designated frontline APS staff during the 2006 legislative session. Although this increase in staff is part of the DCBS realignment plan, it is yet to be implemented and should be given priority in 2007.

During SFY 06, the Office of Attorney General developed a manual for the prosecution of crimes against the elderly. The manual was developed in consultation with legal professionals, victim services, victim advocates and mental health professionals who possess expertise in crimes against the elderly. Additionally, The OAG included medical professionals, law enforcement, and prosecutors from outside the office as well as national experts. To date more than 700 copies of the manual have been distributed to law enforcement, social service agencies, coroners, and other professionals dedicated to combating elder crime. The goal being to educate persons who may be required to participate/testify in criminal cases of abuse, neglect, and exploitation of a vulnerable adult, and to educate persons on how to recognize these crimes when they occur in private (non-institutional) settings.

The development of the electronic 115 (DCBS referral form) is another exciting tool that will be utilized to track the advancement/flow of cases as they progress through the APS system, law enforcement, and the court system. This tool is presently being piloted in the Southern Bluegrass Service Region, along with Kentucky State Police (KSP) Post 7. The combined value of these two tools remains to be seen, however, we do know that the implementation of these resources will allow for more accountability between the Cabinet for Health and Family Services, Kentucky's Legislature, community professionals, and the citizens of which we strive to protect. Comprehensive data resulting from these resources will be available in the annual report for SFY 07.

Since the passage of House Bill 298, Kentucky has made great strides in raising the awareness of elder abuse and in the creation of resources that meet the needs of victims that are discovered through improved training and heightened awareness. The Cabinet for Health and Family Services and the Elder Abuse Committee applauds Governor Fletcher for his aggressive and comprehensive plan to look at issues our aging population brings to the forefront through the multi faceted "Elder Readiness Initiative".

Under Governor Fletcher's leadership this initiative will seek to identify strengths and weaknesses in state and local, public and private elder services, supports, resources and accommodations. The study will investigate and measure four broad domains: community resources, health and safety, life quality, and community involvement. The results will be used to help formulate a critical appraisal of the places where older Kentuckians and their families live and how well those cities, small towns, rural communities and local neighborhoods, support the desired lifestyles and respond to the changing needs of a new generation of elders. (*Governor's press release, August 15, 2005*)

During SFY 06, Kentucky has seen a growth in the number of Local Coordinating Councils on Elder Maltreatment. We presently have 114 out of our 120 counties represented by a coordinating council. It is our goal to have all 120 represented by coordinating councils by the end of 2007. These councils are invaluable assets to the communities they serve. The grassroots approach of identifying and the tailoring of resources to meet the unique needs of the citizens within their communities is both effective and inspirational. Their independent accomplishments include the

development of emergency Elder Shelters, fraud fighter kits for seniors, development of visitor cards that contain helpful information and resources for law enforcement officers that are involved in cases with elders, the creation of specialized trainings for first responders to situations that involve the elderly, resource rooms that contain emergency supplies of food, hygiene products, fans, heaters, and other items that will aide the senior in keeping their dignity and independence and remove an immediate threat of self neglect, but perhaps most importantly are their tireless efforts at keeping the issues of elder abuse in the minds of their fellow citizens.

The adage “It takes a village...” certainly rings true with the issue of protecting our seniors and vulnerable adults. As such, the Cabinet for Health and Family Services has worked diligently at strengthening our partnership with outside agencies and organizations including but not limited to; law enforcement, Office of Attorney General, Office of Inspector General, Area Agencies on Aging, the Long Term Care Ombudsman Program, American Association Retired Persons (AARP), Department for Mental Health and Mental Retardation Services, Department of Education, and domestic violence programs.

This year, Kentucky was host to four large conferences; The Summer Series on Aging, The Crime Victims Conference, Ending Sexual Assault and Domestic Violence Conference, and the Fall Conference on Healthy Aging, and was host to a variety of smaller conferences and workshops that addressed the issues of elder crime, abuse, neglect and exploitation. These conferences secured both national and internationally recognized speakers, each conference held tracks on elder abuse awareness, and brought in attendees from eighteen (18) states. This further demonstrates Kentucky’s commitment to protecting all vulnerable adults and seniors, to learn from others, and to share our best practices for others to emulate across the country.

Although much remains to be done in meeting the needs and challenges that our aging population brings, the Cabinet for Health and Family Services, along with partnering agencies, is most certainly headed in the right direction at recognizing and responding to the needs of its most vulnerable citizens.

Future Direction in Adult Protection

The Cabinet for Health and Family Services remains committed to maintaining and further strengthening our relationship with all of the community partners, Legislature, general public and victims that we serve, working together to improve the well being of all vulnerable citizens in our Commonwealth. This committee remains the vehicle by which resources are identified and developed, accountability is monitored, public awareness is raised, and trends resulting from the aging population are brought to the forefront for the purpose of shaping future public policies.

To fulfill the expectations identified in House Bill 298 the Elder Abuse Committee has chartered six (6) sub –committees, with the newest being the “Resource Development” sub-committee. Each sub-committee is staffed by a DCBS employee with expertise in adult protective services. A complete summary of these committees, which includes, membership, charge and activities, during SFY 06 are summarized in Appendix A of this report.

Outcomes to be achieved by the sub-committees during the SFY 07 include, but are not limited to:

- 1) Implementation of the process to effectively and efficiently investigate, substantiate and prosecute elder maltreatment cases.
- 2) Develop curricula, recommendations, and identify targeted audience for implementation of training on Elder Maltreatment as prescribed in HB 298.
- 3) Expand the use of the electronic 115 to include all counties and KSP posts, track disposition of APS cases.
- 4) Develop a plan for a model guardianship program in Kentucky utilizing nationally accepted standards of practice deemed effective from current research.
- 5) Work in conjunction with the Office of Communications, and the Governor’s Office to secure a celebrity spokesperson to conduct public service announcements on the magnitude of elder abuse in KY, and continue promotion of awareness and prevention of elder abuse.
- 6) Identify areas/entities, particularly the Coordinating Councils, which are in need of resources to aid in heightened awareness of elder abuse, and will assist in alleviating instances of abuse, neglect, and exploitation.

The Cabinet for Health and Family services is striving to improve consistency in services among all of the communities across the Commonwealth. We have reduced the number of service regions from sixteen (16) to nine (9). Additionally, the Department for Community Based Services is moving towards centralized intake in all service regions.

The reduction of service regions will allow for more consistency in both the application of protective service resources, and provide for consistency in the acceptance criteria of cases. Further, it is our goal that with improved training for our intake teams, particularly in the area of APS, that more referrals will be accepted as investigations, more resources identified in appropriate resource linkage, and more cases will be opened for General Adult Service's cases, thus providing more protection and advocacy for our senior and vulnerable adult citizens. The Cabinet will act to further advocate for each region to develop designated APS teams, whose sole focus will be to recognize and respond to elder and vulnerable adult abuse. Additional goals for the coming year include increasing awareness and resources regarding mental health, mental retardation, sexual assault, and domestic violence among the elderly. These areas have been largely overlooked when it comes to the aging and the elderly, making it a matter of urgency to create and implement resources and services, both internally and externally, in regards to our community partners, so that we may better meet the unique challenges and devastating consequences each of these issues brings, not only to our elderly but to society as a whole.

Addressing Elder Abuse in our Commonwealth is challenging given the rapidly aging population. However, it is indeed an exciting time in Kentucky, as we push forward with the combined efforts of the Cabinet for Health and Family Services, and the Elder Abuse Committee in the development of innovative and effective resources that will most assuredly improve the lives of our elderly and vulnerable citizens, thus improving the quality of life for us all.

Policy Recommendations

House Bill 298 directed the Elder Abuse Committee to submit policy recommendations to the Legislative Research Committee via the Elder Abuse Report. These recommendations are in no particular order of importance, but are currently considered to be the most pressing issues in creating a more fluid and effective service delivery system.

1. Designated Adult Protective Services Workers:

Having specialized staff is critical in the ability of DCBS to recognize/react/respond appropriately to instances of elder abuse. By not having designated staff the reality is that policy interpretation is often confused, resource availability may not be known, the services delivered, if any, can be ineffective thus placing the victim in possible further danger of continued harm or worse yet death of the elder victim. We must expect that services for our elders mirror the level of services given to our child victims of abuse, neglect, and exploitation. We must also support that expectation through our actions, meaning that resources at the state level be filtered down into Adult Protective Services. Some such resources and funding may be made possible should future Federal Legislation such as the Elder Justice Act pass. Please see www.ElderJusticeAct.org for more information regarding the particulars of the proposed federal legislation. In any event, the commitment by the Cabinet to add 25 designated APS workers during state fiscal year 2007, is a good first step, and must be given priority.

2. Host a Summit for the Chairpersons of the Local Coordinating Councils on Elder Abuse:

There is presently no mechanism in place that allows for open and interactive communication between the councils on a statewide level. This would allow for the sharing of best practices through an open forum. Ideas and programs discussed could then be emulated from one community to another across our Commonwealth. This summit would also be the avenue upon which common goals are set on a statewide (but not set by State Government) level for all the councils to work towards for the coming year, and would provide for consistency, and unity. The summit would reinforce that the councils need to be goal minded and have measurable outcomes for effectiveness. This would also help to re-energize councils that may be struggling with direction and gain buy in from their community. The open sharing at a summit such as this would also potentially allow for the creation of resources for persons in more isolated areas that may not have had such before, this will promote buy in from our more rural communities that often feel insignificant and frustrated because of their lack of resources, and will potentially improve the lives of all citizens within that community. This proposed initiative certainly is within the visions and intent of Governor Fletcher's Elder Readiness Initiative.

3. In Depth Review of Kentucky's Current Guardianship Program;

Present research by Pamela Teaster, Ph.D. of the University of Kentucky has found that current ratios of Guardian to Ward are well above what is recommended by national studies. It has been predicted that in 5 years Kentucky's Guardianship system will collapse under its own weight if drastic steps are not implemented to reduce the case loads of the direct service workers. This can be achieved by adding additional staff to the Guardianship offices, and improving training for Judges and attorneys on when a person is appropriate for Guardianship. All too often CHFS is becoming a placement agency for persons who are chronically homeless, mentally ill, chemically dependant, or all of the above. Without funding for the wards, much like the funding attached to children who come into the states care, we to are faced with placing the ward in homeless shelters, which often times are unable to meet the complex needs of the individual, in essence perpetuating the problem instead of addressing the problem. The funding for and development of community resources for Guardianship makes fiscal sense, and would allow for the least restrictive setting. It is the preference of elder and vulnerable adults to age in place, or at least within their own communities of which they have a connection and are familiar. It is our obligation as a state to make every attempt to accommodate those wishes, preserve their dignity, and allow for their autonomy. The Guardianship sub-committee's report will provide a plan for improving this system. It will also define the resources that will be required for the implementation of the suggested areas of improvement.

4. Enforcement of Penalties for Failure to Comply with the Directives of KRS 209 and KRS 209A;

This past year CHFS has seen an increase in the number of instances where agencies refuse access to records as requested by frontline investigators. The majority of these cases involved financial institutions. Even when presented with a copy of the mandate that allows DCBS social workers to have access to all relevant documentation that would be prudent to a thorough investigation, these institutions are prohibiting access, or at best delaying access to the records until internal clearance is obtained. This creates a situation that is fertile for further abuse, neglect or exploitation of the victim(s), and would presumably create a situation of liability for the very institution that is failing to cooperate. DCBS staff has, on occasion, enlisted the help of the Office of Legal Services, to assist them in promptly gaining access to needed documents. Even with the assistance of The Office of Legal Services, some financial institutions remain resistant to allowing DCBS access to the needed documents. Without there being enforced penalties for failure to comply with the mandate, there is no urgency on behalf of the community agency/entity to comply and cooperate with the Protective services Investigations. Emphasis regarding the enforcement of existing penalties as defined in KRS chapter 209 should be given priority during in SFY 07.

Appendix A
Sub-Committee Activities and
Memberships

Public Awareness Sub-Committee

Activities

The Public Awareness Sub-Committee is charged to review statewide elder abuse issues and concerns. The goals of which, are to develop and disseminate recommendations that will help increase community awareness, improve prevention programs, and enhance service delivery. It is our hope that the heightened awareness of Elder Abuse will enable Kentucky's Seniors, and those who care for them, to recognize the signs and symptoms of Elder Abuse, and to know how and to whom they can report suspected abuse.

This Sub-Committee believes it had an extremely successful year in carrying out the intentions of HB 298. Our accomplishments for this year include;

- Creation of a statewide campaign with the catch phrase "Abuse.....Do Something About It!" This campaign also included the toll free hotline to report Adult Abuse, as well as the Elder Abuse Awareness Website address.
- Reproduced and distributed a number of informational pamphlets for the general public that contained signs and symptoms, statistics, and other pertinent information related to Elder Abuse.
- The public awareness video "Unheard Cries; Elder Abuse in Kentucky" was revised in May 2006, to include current definitions, local coordinating councils, new photos, and updated statistics. For the first time it is available in closed caption format to accommodate those with special viewing needs, and to comply with standards set through the Americans with Disabilities Act.
- Updated the Elder Abuse Awareness Website. The site is much more user friendly. The website now contains a Calendar of events that details conferences, trainings, seminars, etc. that professionals, seniors, and other concerned/interested citizens can attend. The 2005 Elder Abuse Report is available to download from this website. The newly revised "Elder Abuse Awareness Kit" is also available for download. We are preparing a "Training Resource Room". In this "resource room" site visitors will be able to download the PowerPoint training materials that various speakers use when conducting specialized community trainings, making it possible for administrators, training staff, and others to download the materials and use for training and public awareness in their individual facility(s).
- We have an educationally based training curriculum for students. The curriculum may be down loaded from the Elder Abuse Awareness website and acts to promote intergenerational learning, respect, and appreciation of elders by Kentucky's school children. The curriculum was approved by Kentucky's Department of Education.
- Conducted the 2nd annual Elder Abuse Awareness Rally at the State Capitol in May 2006. The rally was high in attendance, and incorporated visual art created by Elder's in Kentucky, as well as a musical performance by Carrithers Middle School Choir. The rally was covered by the media. Next year's rally will coincide with World Elder Abuse Awareness Day and will take place June 15, 2007.

Items to be focused on for fiscal year '07 include, but are not limited to;

- Temporary safe places for Elders who are abused and in need of safe temporary shelter.
- Explore viability of safe houses/units for medically fragile, bed bound, or those deemed unable to be left alone, until permanent placement can be obtained.
- Partnering with other key first responder agencies to promote a unified front on Elder Abuse Awareness and prevention.
- Promote discussions with the OAG and OIG, regarding the use of funds collected through penalties of telemarketing companies, as well as other entities that commit crimes against seniors, or are fined for facility violations, and in lieu of depositing the money into the general fund, have a portion of those monies deposited into the Elder Abuse Awareness fund, which would allow the state to make a larger impact on Public Awareness by the availability of more materials for distribution.
- Increase awareness of Domestic Violence in later life.
- Target specific audiences for awareness workshops/lectures, i.e. Senior Centers, AAA's, Family Resource Centers, schools, and universities
- Educational campaign of our medical community on Elder Abuse signs and symptoms, including home health, physicians, nurses, nurse aides, and dentists. Studies show the medical community is the LEAST likely to report Elder Abuse, but may be the MOST likely to encounter it!
- Become involved with global action on Elder Abuse Awareness, such as the World Elder Abuse Awareness Day and the promotion/coordination of activities with at least one of our international sister city's.
- Engage businesses across the Commonwealth to become partner(s) in public awareness regarding Elder Abuse.

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Guardianship Subcommittee

Activities

The Subcommittee on Guardianship has met over the last year via telephone and via in-person meetings in Frankfort and Richmond. Members of the committee are highly informed about and committed to the issues of guardianship and are working on a model Guardianship program for Kentucky by taking an in depth look at the following three areas:

- Guardianship funding and vision for the future. The purpose of this group is to review and submit recommendations for improvement to the Kentucky Revised Statute as it relates to Guardianship. At this point, members believe that, as currently written, the statutes are not easily applied or in one place. They are working with model legislation from other states, as supplied by colleagues from the Commission on Law and Aging, American Bar Association. Members of the committee are also informed by their own experience and knowledge.
- Although the committee had hoped to propose legislation for the 2007 General Assembly Session, by the early summer, it became apparent that this was too aggressive a goal, and the group determined to craft the legislation and seek a sponsor for the 2008 Session.
- Public guardianship. The purpose of this group is to gather information on the public program in Kentucky in the hopes of making a compelling argument to the General Assembly, in 2008, that securing more staff for the program is critical. The ratio of guardian to ward is far higher than national research recommends. The public program is also working on the implementation of a new tracking system that will bring record keeping in line with recommendations from a national report on the subject that found that data collected on the programs was generally inadequate.
- Kentucky Guardianship Association. In the spring, members heard a discussion by Joy Duke, Executive Director of the Virginia Guardianship Association. After considering the pros and cons of forming such a group, the Subcommittee endorsed its formation and anticipates a spring 2007 launch of this group. It is believed that with a KGA, efforts in the guardianship area can receive more and sustained public attention than they have heretofore.

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Investigative Sub-Committee

Activities

In the past year the Investigative Sub-Committee has examined the current processes of DCBS, law enforcement agencies and the courts that govern how an elder abuse investigation is processed through the system. The Sub-Committee has identified critical points of coordination across agency lines throughout the life of a case and developed recommendations toward a multidisciplinary investigative design that emphasizes victim safety, perpetrator accountability, and continuous quality improvement.

Critical points of coordination across agency lines were identified utilizing the DCBS Adult Protective Services Process Map, (see page 40). Sub-Committee members representing law enforcement and the courts offered valuable insight in identifying these critical points of coordination throughout the life of an investigation. In addition to the initial DCBS notification, and the notification of DCBS findings, there was much discussion concerning the need for DCBS to share information with partnering agencies at any time during an investigation when circumstances warrant such. Beyond the information sharing, it was noted that there is often agency overlap when responding to adult abuse, neglect and exploitation. That partnering may occur at several points during an investigation including but not limited to victim, perpetrator and collateral interviews, and securing and review of medical, financial, and criminal records. The prevailing view of the sub-committee was that in some areas of the state these lines of communication and coordination are open and robust while in other geographic areas this is lacking. This contrast is particularly recognizable when comparing geographic DCBS regions that have designated APS units against those that do not. Recognizing that addressing these issues will require a multifaceted approach implemented over time the following recommendations were offered for consideration to the full Committee.

- Regionalized Interfacing opportunities for DCBS APS workers, law enforcement, and court personnel in elder abuse issues including investigative protocols. Regularly scheduled cross training events attended by partnering agencies within a specific geographic area will allow for and promote improved coordination, response, and resource development that is reflective of the community systems and tailored to the needs of the local client base.
- Case Review Teams housed within the Local Coordinating Councils on Elder Abuse. These councils serve as an outstanding venue for all partnering agencies to meet, develop, refine, strengthen, and maintain healthy working relationships and lines of communication. Sub-Committees may be formed within these councils comprised of local DCBS staff, law enforcement and prosecutors to specifically address active APS investigations occurring within a specific geographic area. Ancillary service providers such as Senior Services, faith based organizations or other local social service agencies may be pulled in to assist in providing a comprehensive response to adult abuse, neglect and exploitation that minimizes instances of cases “falling through the cracks”. The Case Review Sub-Committee allows for a community based approach that draws on local

resources in responding to abuse, neglect and exploitation versus an inherently limited response to a pervasive community problem that can be offered by a singular agency/entity.

- Designated Adult Protective Service units and APS specialists within each of the 9 DCBS service regions. HB 298 put forth that CHFS shall provide for sufficient social work staff to implement the provisions of KRS chapter 209). Reorganization efforts within the DCBS this past year provide an opportunity to ensure an adequate APS infrastructure that is designed to meet the increasing occurrence of adult abuse, neglect and exploitation as evidenced through recent and projected data trends. Designated APS units allows for an unfettered focus on abuse of elderly and disabled adults, promotes greater efficiency in meeting mandatory training requirements of DCBS staff, provides opportunities for DCBS staff to gravitate toward a preferred program area, and creates a more readily visible resource within DCBS for partnering agencies and the public at large to identify when the need arises. Similarly dedicated units or staff should be considered by law enforcement agencies.
- CHFS partnering with KY universities to create a feeder system for APS staff. Presently the CHFS is involved in a joint venture with KY public and private universities with an accredited social work program. It is the public child welfare certification program, (PCWPC). The CHFS pays BSW student tuition for the final two years and the student commits to employment with the CHFS for two years in the capacity of a child protection worker. This program provides BSW students with financial aide, educational credit for an internship with the CHFS and employment following completion of degree requirements. The CHFS benefits from a consistent stream of qualified staff entering the workforce. This model may be replicated for adult protection. Should the federal Elder Justice Act, or similar legislation pass in the future, and become law, it may provide a funding stream to support this type of program.

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Training Sub-Committee

Activities

The Training Sub-Committee is charged with developing and implementing curricula relating to the expanded elder abuse training requirements as defined by HB 298.

This year the Training Sub-Committee has focused on three major areas.

- The first was to identify the specific requirements resulting from HB 298 as it relates to the entities mandated to receive elder abuse training, and in identifying the components required by each profession. The sub-committee recommends that all adult protection staff and their supervisors complete “Meeting the Needs of Vulnerable Adults” in order to comply with training mandates.
- Secondly, the sub-committee has worked on developing and designing training materials and training guides used by those professions that cover their specific needs on the issue of Elder Abuse. The Office of Attorney General has completed the Prosecutor’s manual. Law Enforcement continues to develop their training manual. The Sub-Committee recommends cross training opportunities when possible.
- Lastly, the sub-committee looked at options for how best to house these training materials, and at the same time have the materials accessible to the various professional organizations that needed them. It was decided that the sub-committee would work in conjunction with the Adult Safety Branch of DCBS to develop a “resource room” within the existing Elder Abuse Awareness Website. This would allow all curricula, PowerPoint’s, and training manuals to be on-line and easily downloaded by the outside professional(s).

The Sub-Committee will continue to meet and address these identified needs and will focus on the additional need for professional cross training. The Sub-Committee will continue to coordinate with the other standing Sub-Committees to incorporate revisions of training material as progress is made in data collection and investigative procedural changes and provide for the enhancement of public awareness on elder abuse.

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Data Sub-Committee

Activities

The Data and Research Subcommittee is charged with enhancing the data sharing capacity of the cabinet and its partnering agencies and with enhancing our knowledge of the experience of elder abuse and the interventions initiated to reduce and ultimately eliminate it. During the past year, the subcommittee has met several times and has worked on two main projects:

- The Electronic 115 Project – this initiative’s objective is an enhanced data sharing capacity for both the Cabinet and “authorized agencies” that serves the ultimate goal of greater integration of practice surrounding elder abuse, neglect and exploitation. With the passage of 05 HB 298, expectations for collaboration among agencies in the response to these crimes were significantly expanded; but it was determined that in order to truly accomplish this objective the capacity for data sharing would need to be enhanced. To this end, subcommittee members decided to enhance the existing reporting mechanism (DPP-115) that is currently used by Cabinet staff to notify “authorized agencies” of elder abuse investigations. The first phase of the project focused on law enforcement agencies and both they and Cabinet IT staff were involved in the development of a web-based application that will provide an electronic transfer of pertinent data and a database for reporting. A phased implementation began in November 2006 with a statewide rollout anticipated by the end of 2007. Once the law enforcement phase is complete, the project will focus on prosecutors, courts and other “authorized agencies”.
- A Day in the Life of APS Research Project – this research project is designed to provide a comprehensive snapshot of APS practice in Kentucky. It was initiated by Pam Teaster, PhD at the University of Kentucky and is meant to expand our understanding of not only the positive current practices utilized in the response to elder maltreatment, but to also provide critical details of service gaps and resource needs as staff respond to these crimes. The project will take a comprehensive look at all APS related activities on a select day. It will then track the “life of the case” to ultimate completion in order to better understand the “what and why” of current practice. This project has significant implications for leadership decision making within the Cabinet and will provide both consumers and provider agencies with direction as they make important budgetary and staffing decisions. An RFP is currently being composed for submission to both the Cabinet and the University of Kentucky.

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Appendix B **Data**

60 Plus Population **Statewide Data for SFY 2003 - SFY 2006**

Total Adult Protective Services Cases for 60-Plus Population

	SFY03	SFY04	SFY05	SFY06
Total # of Reports	7361	7676*	9136*	9387
Total # of Investigations	5270	5043	5179	6548
Total # of Investigations Substantiated	1180	1471	1543	1844
Total # Resource Linkages	677	1010*	2333*	2002
Total # of General Adult Services	1414	1623	1624	799

**It should be noted that the increase in these numbers may be best explained through the introduction of enhanced tracking mechanisms as well as increased public awareness.*

Total # of Investigation by type for the 60-Plus Population

	SFY03	SFY04	SFY05	SFY06
Adult Abuse	1400	1281	1145	1093
Spouse Abuse	304	399	360	368
Partner Abuse	59	81	89	69
Neglect by Caretaker	2197	1942	2031	2161
Self Neglect	1645	1719	1733	1831
Exploitation	772	858	945	1026

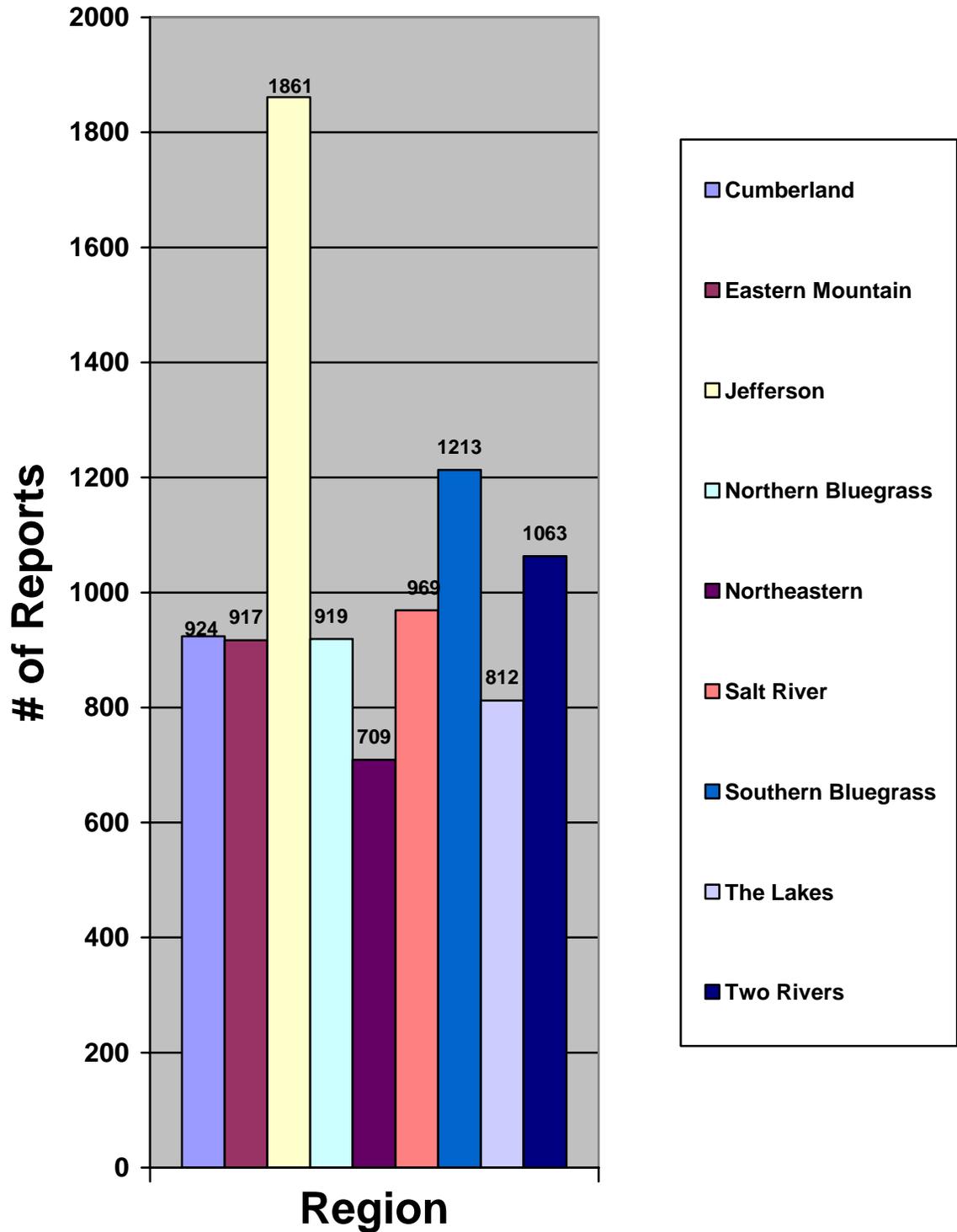
(It should be noted that there may be more than one type of investigation per assigned case for investigation)

Total # of Substantiated Investigations by Type for 60-Plus Population

	SFY03	SFY04	SFY05	SFY06
Adult Abuse	191	229	240	273
Spouse Abuse	45	85	93	85
Partner Abuse	10	17	24	15
Neglect by Caretaker	304	300	323	331
Self Neglect	481	620	623	631
Exploitation	149	220	240	250

Kentucky State Fiscal Year: July 1st – June 30th

Total Number of 60 plus APS Reports by Region for SFY 2006



**APS Investigations for the 60 plus Population by Region
SFY 2006 (July 1, 2005 - June 30, 2006)**

Total Adult Protective Services for

	Eastern Mountain	Jefferson	Northeastern	Northern Bluegrass	Salt River	Southern Bluegrass	The Cumberland's	The Lakes	Two Rivers
Total # of Reports	917	1861	709	919	969	1213	924	812	1063
Total # of Investigations	626	1795	382	610	499	847	551	457	682
Total # Inv. Sub.	183	670	107	161	94	183	144	117	185
Total # Resource Linkage	208	198	129	170	334	219	368	242	234
Total # General Adult Services	194	304	231	273	194	410	133	178	242

Total # Allegations by Type within an Investigation

	Eastern Mountain	Jefferson	Northeastern	Northern Bluegrass	Salt River	Southern Bluegrass	The Cumberland's	The Lakes	Two Rivers
Adult Abuse	128	338	59	126	81	100	100	73	88
Spouse Abuse	46	64	20	44	38	32	37	42	45
Partner Abuse	10	12	2	6	8	9	8	5	9
Neglect by Caretaker	258	500	117	161	160	380	175	175	235
Self Neglect	184	541	141	150	125	211	138	118	223
Exploitation	99	340	43	123	87	115	93	44	82

Total # Investigations Substantiated by Type for 60-

	Eastern Mountain	Jefferson	Northeastern	Northern Bluegrass	Salt River	Southern Bluegrass	The Cumberland's	The Lakes	Two Rivers
Adult Abuse	35	99	22	25	18	23	18	15	18
Spouse Abuse	11	23	5	9	6	9	2	11	9
Partner Abuse	2	5	0	0	2	3	1	0	2
Neglect by Caretaker	34	94	17	26	14	47	33	22	44

60 Plus Reports as Compared to the of 60 Plus Population

Region	Total Population	60+ Population	Percentage of Population over 60	Total number of APS Reports
Cumberland	440,254	83,158	18.9%	924
Eastern Mountain	278,680	48,443	17.4%	917
Jefferson	700,030	121,267	17.3%	1,861
Northern Bluegrass	493,558	71,119	14.4%	919
Northeastern	272,080	48,829	17.9%	709
Salt River Trail	540,229	79,866	14.8%	969
Southern Bluegrass	538,753	79,487	14.7%	1,213
The Lakes	408,013	88,659	21.7%	812
Two Rivers	474,325	84,919	17.9%	1,063

**APS Investigations for the 18-59 plus Population by Region
SFY 2006 (July 1, 2005 - June 30, 2006)**

Total Adult Protective Services for 18-59-Plus Population

	Eastern Mountain	Jefferson	Northeastern	Northern Bluegrass	Salt River	Southern Bluegrass	The Cumberlands	The Lakes	Two Rivers
Total # of Reports	4439	5370	2178	3186	5040	4294	4685	3252	4362
Total # of Investigations	2594	4719	1303	2416	2267	2630	2093	1884	2438
Total # Inv. Substantiated	800	1697	441	424	442	605	400	457	594
Total # Resource Linkage	2202	487	761	506	2656	1337	2500	1151	1656
Total # General Adult Services	194	217	111	152	156	236	165	153	157

Total # Allegations by Type within an Investigation for 18-59 Plus Population

	Eastern Mountain	Jefferson	Northeastern	Northern Bluegrass	Salt River	Southern Bluegrass	The Cumberlands	The Lakes	Two Rivers
Adult Abuse	395	254	144	104	194	99	202	198	123
Spouse Abuse	1330	1584	645	1075	1038	1175	1048	944	1173
Partner Abuse	571	2122	385	1026	818	1061	509	530	879
Neglect by Caretaker	150	263	58	84	121	155	197	120	137
Self Neglect	108	339	57	65	69	105	83	67	84
Exploitation	40	157	14	62	27	35	54	25	42

Total # Investigations Substantiated by Type for 18-59 Plus Population

	Eastern Mountain	Jefferson	Northeastern	Northern Bluegrass	Salt River	Southern Bluegrass	The Cumberlands	The Lakes	Two Rivers
Adult Abuse	15	66	20	18	21	8	32	25	17
Spouse Abuse	494	539	219	169	218	289	130	232	286
Partner Abuse	148	697	130	143	149	212	48	107	171
Neglect by Caretaker	19	65	14	22	14	21	74	27	32
Self Neglect	44	196	21	27	16	37	34	24	28
Exploitation	7	37	2	16	1	5	11	7	11

18 to 59 Population
Statewide Data for SFY 2003 - SFY 2006 *

Total Adult Protective Services for 18 to 59 Population

	SFY03	SFY04	SFY05	SFY06
Total # of Reports for 18 to 59 Population	30001	32733	38660	36806
Total # of Investigations for 18 to 59 Population	22448	21876	22477	22344
Total # of Investigations Substantiated for 18 to 59 Population	4854	5942	5968	5860
Total # of Resource Linkages	5431	8115	14671	13256
Total # of General Adult Services	2122	2742	1512	1541

Total # of Investigations by type for the 18 to 59 Population

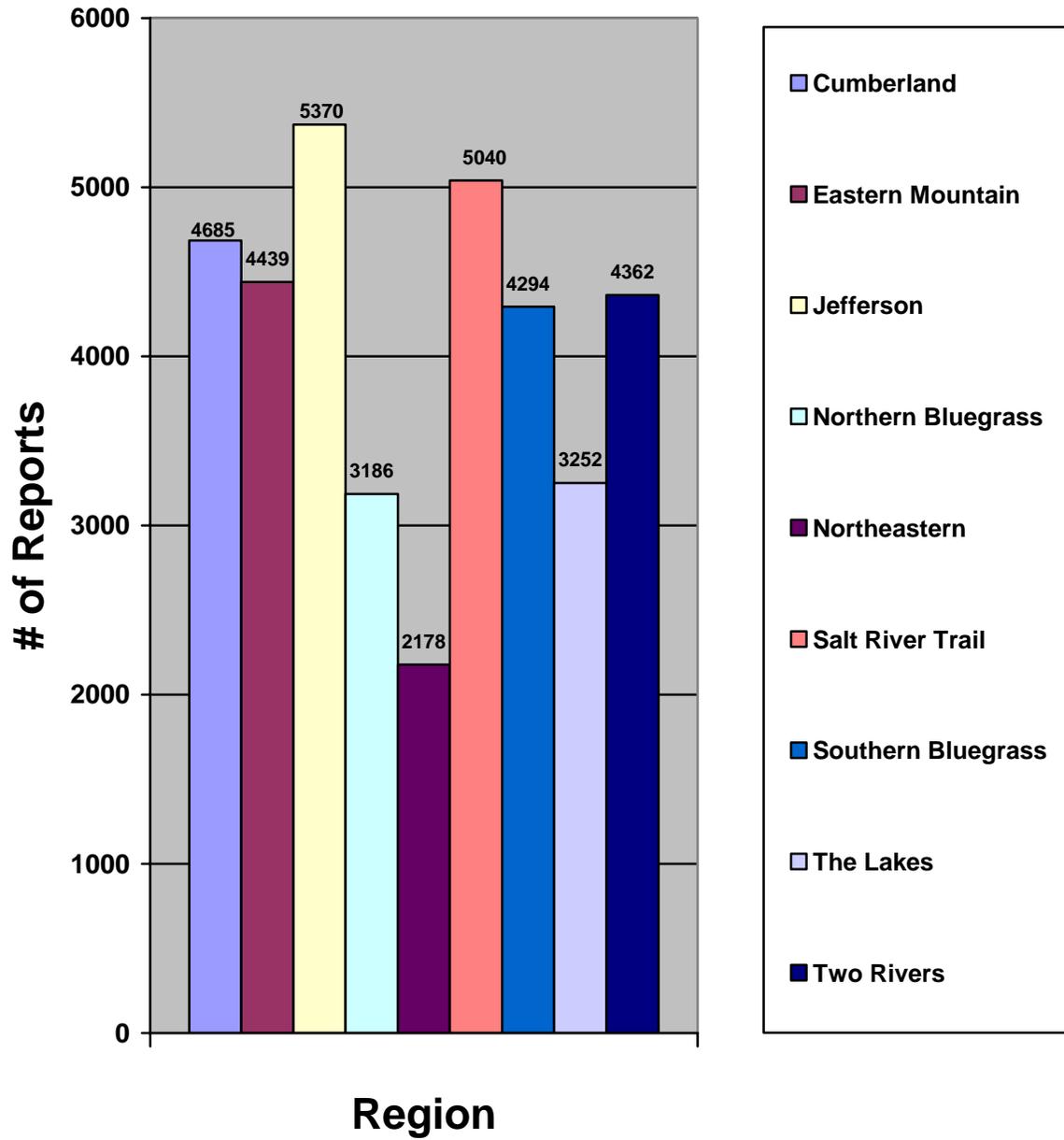
	SFY03	SFY04	SFY05	SFY06
Adult Abuse	4357	4674	2548	1713
Spouse Abuse	12155	12398	10882	10012
Partner Abuse	7536	8562	8362	7901
Neglect by Caretaker	1212	1134	1234	1285
Self Neglect	890	843	871	977
Exploitation	367	381	425	456

Total # of Substantiated Investigations by Type for 18-59 Population

	SFY03	SFY04	SFY05	SFY06
Adult Abuse	420	475	280	222
Spouse Abuse	2521	3093	2970	2576
Partner Abuse	1326	1768	2017	1805
Neglect by Caretaker	245	218	255	288
Self Neglect	277	331	378	427
Exploitation	65	57	68	97

* Kentucky State Fiscal Year: July 1st – June 30th

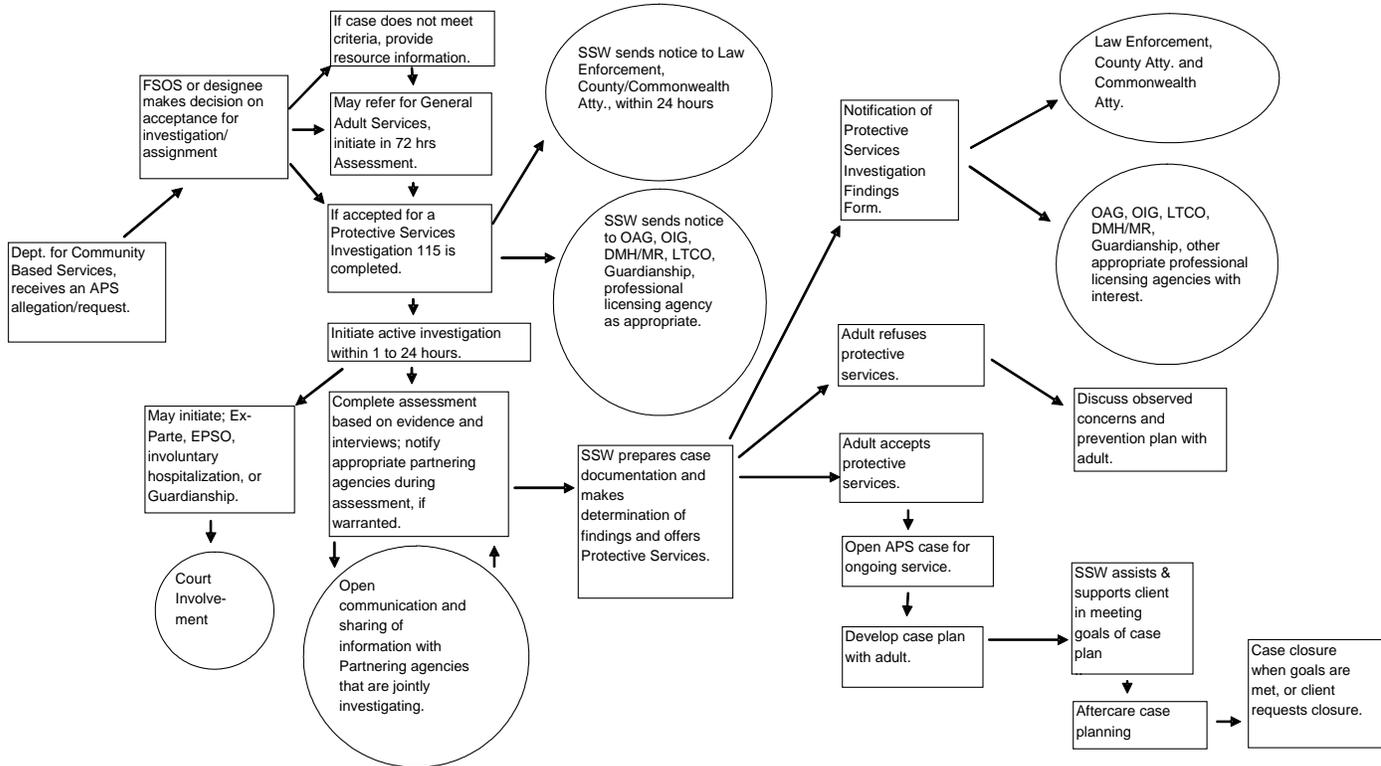
Total Number of 18 - 59 APS Reports by Region for SFY 2005

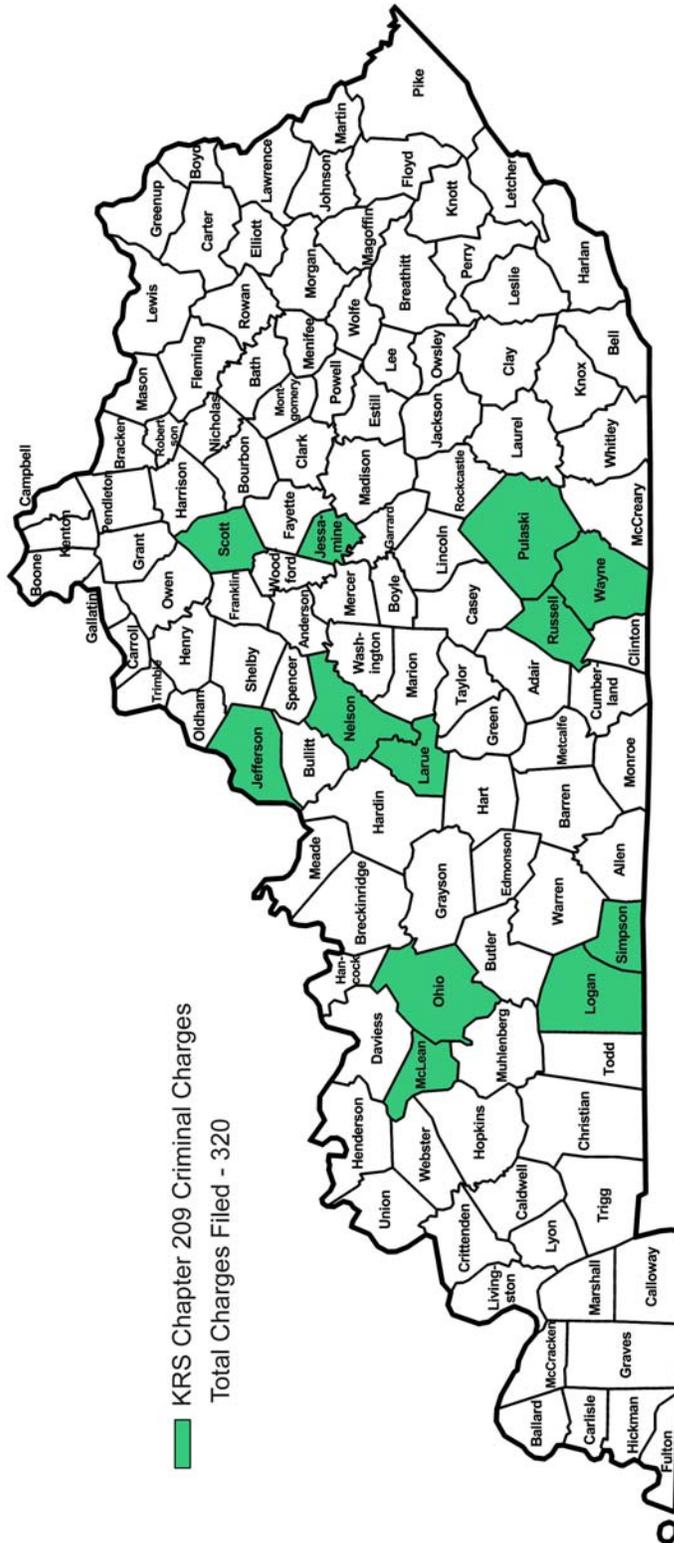


Appendix C **Figures**

DCBS Adult Protective Services Process Map

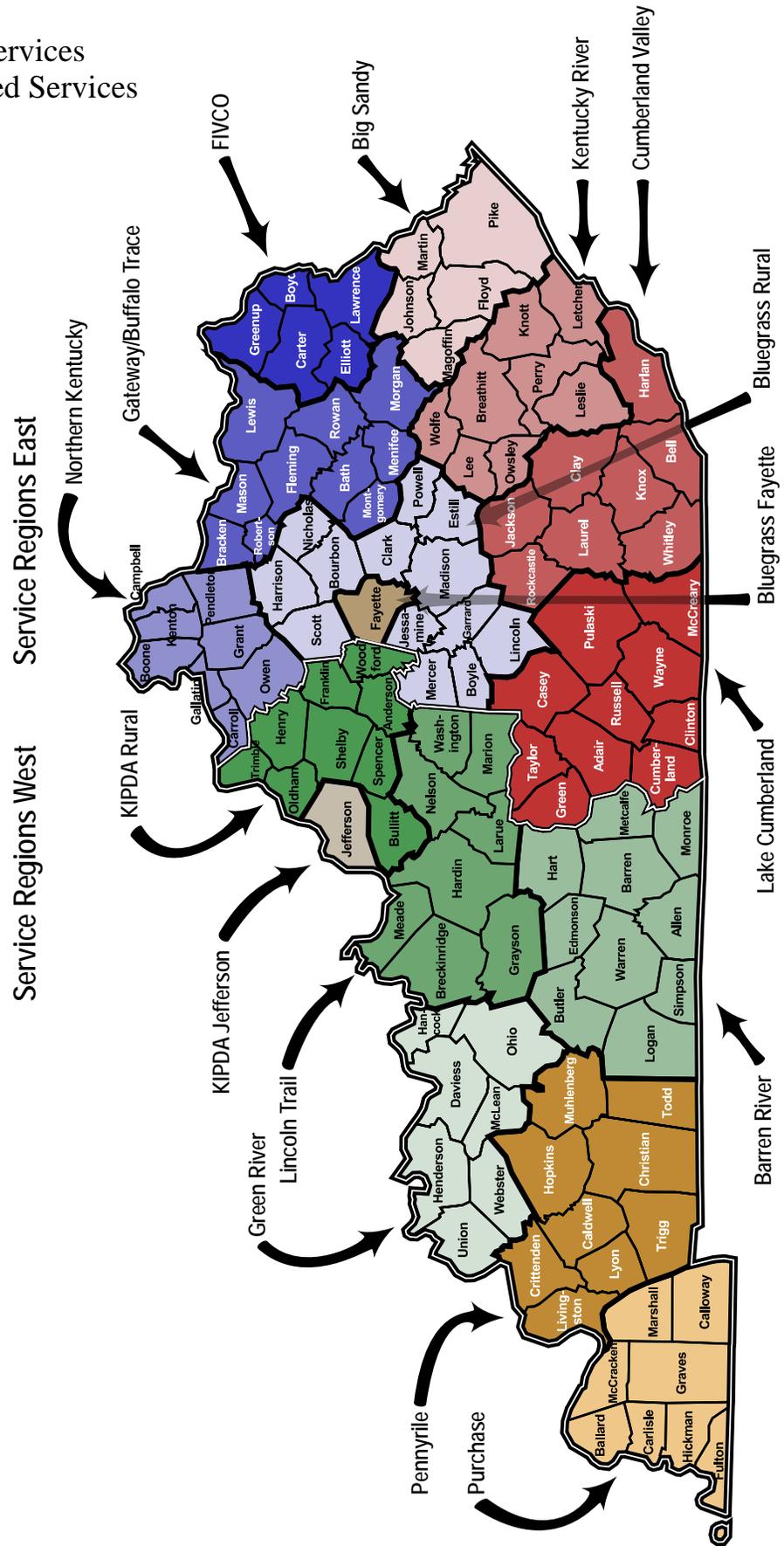
The Department for Community Based Services is statutorily charged (KRS 209.010) with the provision of protective services for dysfunctioning adults. This process is accomplished through a multidisciplinary approach outlined in the following diagram.





	SFY03	SFY04	SFY05	SFY06
Number of Criminal Charges Filed Related to				
KRS Chapter 209	Data Unavailable	181	238	320

Cabinet for Health and Family Services
 Department for Community Based Services
 "Old" Service Regions



Appendix D
KRS chapters 209 & 209A

KRS Chapter 209

Kentucky Adult Protection Act

209.005 Elder Abuse Committee -- Membership -- Duties -- Annual report.

(1) The Cabinet for Health and Family Services shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various agency representatives that include, but are not limited to:

- (a) The Department for Community Based Services;
- (b) The Department for Public Health;
- (c) The Department for Mental Health and Mental Retardation;
- (d) The Division of Aging Services;
- (e) The Division of Health Care Facilities and Services;
- (f) The Office of the Ombudsman;
- (g) Area Agencies on Aging;
- (h) Local and state law enforcement official; and
- (i) Prosecutors.

(2) The committee shall address issues of prevention, intervention, investigation, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including, but not limited to:

- (a) Senior citizen centers;
- (b) Local governmental human service groups;
- (c) The Sanders-Brown Center on Aging at the University of Kentucky;
- (d) Long Term Care Ombudsmen; and
- (e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.

(3) The committee shall:

- (a) Recommend a model protocol for the joint multidisciplinary investigation of reports of suspected abuse, neglect, or exploitation of the elderly;
- (b) Recommend practices to assure timely reporting of referrals of abuse, neglect, or exploitation required under KRS 209.030(12);
- (c) Explore the need for a comprehensive statewide resource directory of services for the elderly;
- (d) Enhance existing public awareness campaigns for elder abuse and neglect; and
- (e) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.

(4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.

209.990 Penalties.

(1) Anyone knowingly or wantonly violating the provisions of KRS 209.030(2) shall be guilty of a Class B misdemeanor as designated in KRS 532.090. Each violation shall constitute a separate offense.

(2) Any person who knowingly abuses or neglects an adult is guilty of a Class C felony.

(3) Any person who wantonly abuses or neglects an adult is guilty of a Class D felony.

(4) Any person who recklessly abuses or neglects an adult is guilty of a Class A misdemeanor.

(5) Any person who knowingly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars (\$300) in financial or other resources, or both, is guilty of a Class C felony.

(6) Any person who wantonly or recklessly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars (\$300) in financial or other resources, or both, is guilty of a Class D felony.

(7) Any person who knowingly, wantonly, or recklessly exploits an adult, resulting in a total loss to the adult of three hundred dollars (\$300) or less in financial or other resources, or both, is guilty of a Class A misdemeanor.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 132, sec. 8, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 249, sec. 1, effective July 15, 1998; and ch. 370, sec. 5, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 56, sec. 2, effective July 15, 1986. -- Created 1976 Ky. Acts ch. 157, sec. 9.

KRS Chapter 209A

Kentucky Adult Protection Act

209A.010 Purpose of chapter.

The purpose of this chapter is to identify victims of domestic violence, abuse, or neglect inflicted by a spouse, and to provide for the protection of adults who choose to access those services. A victim of domestic violence who has a mental or physical disability or who cannot carry out the activities of daily living or protect himself or herself without the assistance of others may be served under the provisions of KRS Chapter 209.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 132, sec. 20, effective June 20, 2005.

209A.020 Definitions for chapter.

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;
- (4) "Adult" means a person without regard to age who is the victim of abuse or neglect inflicted by a spouse;
- (5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused or neglected. These services may include but are not limited to conducting investigations of complaints of possible abuse or neglect to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action, including action under KRS Chapter 209, and social services aimed at preventing and remedying abuse or neglect;
- (6) "Abuse" means the infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including mental injury;
- (7) "Investigation" shall include but is not limited to a personal interview with the individual reported to be abused or neglected. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;
- (8) "Records" means the medical or mental health records of the adult that are in the possession of any individual, hospital, firm, corporation, or other facility if necessary to complete the investigation mandated in KRS 209.030(5);
- (9) "Neglect" means a situation in which a person deprives his spouse of reasonable services to maintain health and welfare; and
- (10) "Authorized agency" means:
 - (a) The Cabinet for Health and Family Services;
 - (b) A local law enforcement agency or the Kentucky State Police; or
 - (c) The office of a Commonwealth's attorney or county attorney.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 132, sec. 21, effective June 20, 2005.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

209A.030 Administrative regulations -- Reports of abuse or neglect -- Cabinet actions -- Penalty for failure to report abuse or neglect.

(1) The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. The secretary may offer or cause to be offered protective services for safeguarding the welfare of an adult who has experienced abuse or neglect inflicted or caused by a spouse. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the powers of another authorized agency to act under its statutory authority.

(2) Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, mental health professional, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse or neglect, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse or neglect of an adult.

(4) Any person making such a report shall provide the following information, if known:

- (a) The name and address of the adult;
- (b) The age of the adult;
- (c) The nature and extent of the abuse or neglect, including any evidence of previous abuse or neglect;
- (d) The identity of the perpetrator, if known;
- (e) The identity of the complainant, if possible; and
- (f) Any other information that the person believes might be helpful in establishing the cause of abuse or neglect.

(5) Upon receipt of the report, the cabinet shall take the following action:

- (a) Notify the appropriate law enforcement agency, if indicated;
- (b) Initiate an investigation of the complaint; and
- (c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(6) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter.

(7) Any representative of the cabinet actively involved in the conduct of an abuse or neglect investigation under subsection (5) of this section shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this section.

209A.040 Cabinet's authority to promulgate administrative regulations on general adult services.

The cabinet shall promulgate administrative regulations for the provision of general adult services to include uniform criteria for adult intake and appropriate and necessary service provision.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 132, sec. 23, effective June 20, 2005.

209A.050 Immunity from civil or criminal liability for good faith performance of duties.

Anyone acting upon reasonable cause in the making of any report or investigation pursuant to this chapter, including representatives of the cabinet in the reasonable performance of their duties in good faith, and within the scope of their authority, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or investigation and such immunity shall apply to those who render protective services in good faith pursuant to the consent of the adult.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 132, sec. 24, effective June 20, 2005.

209A.060 Privileged relationships not ground for excluding evidence.

Neither the psychiatrist-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding the abuse, neglect, or exploitation of an adult or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 132, sec. 25, effective June 20, 2005.

209A.070 Confidentiality of the identity of domestic violence program clients or former clients.

All records, requests for services, and reports that contain information that identifies a current or former client of a domestic violence program are confidential and shall not be disclosed by any person except as provided by law. The cabinet shall have access to client records, requests for services, and reports relating to any domestic violence program for the limited purpose of monitoring the program.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 132, sec. 26, effective June 20, 2005.

209A.080 Confidentiality of spousal abuse or neglect investigation information -- Exceptions.

All information obtained by the department staff or its delegated representative as a result of an investigation made pursuant to this chapter shall not be divulged to anyone except:

- (1) Persons suspected of abuse or neglect, provided that in such cases names of informants may be withheld, unless ordered by the court;
- (2) Persons within the department or cabinet with a legitimate interest or responsibility related to the case;
- (3) Other medical, psychological, social service agency, law enforcement, or other authorized agency that has a legitimate interest in the case;
- (4) Cases in which a court orders the release of the information; and
- (5) The alleged abused or neglected person.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 132, sec. 27, effective June 20, 2005.

Appendix E
List of Resources Cited

Resources Cited

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