

**The Vulnerable Adult Protective Investigation Team
(VAPIT):
*A Toolkit to Support Communities
Across Tennessee***

Prepared by:
Coordinated Community Response (CCR)
to Protect Older and Vulnerable Adults Across Tennessee
2021



Committee Members

Tennessee Department of Human Services
Tennessee Department of Health
Tennessee Department of Mental Health and Substance Abuse Services
Tennessee Finance and Administration - Office of Criminal Justice Programs
Tennessee Commission on Aging and Disability
Tennessee Department of Commerce and Insurance
Tennessee Department of Financial Institutions
Disability Rights Tennessee
Tennessee Council on Developmental Disabilities
Tennessee Public Utility Commission
Tennessee Bureau of Investigation
Office of the Attorney General
District Attorney Conference
Tennessee Housing and Development Agency
TennCare
Tennessee Department of Transportation
Tennessee Department of Intellectual and Developmental Disability
Chiefs of Police
Administrative Office of the Courts

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Purpose

The purpose of the VAPIT toolkit is to provide information, resources and tools to support and streamline the efforts of the Vulnerable Adult Protective Investigative Team (VAPIT). Written into law (TCA 71-6-125) on January 1, 2017, the District Attorney General (DA) of each judicial district in Tennessee shall establish, or cause to be established, a VAPIT team for the purpose of:

- Coordinating the investigation of suspected instances of abuse, neglect, or exploitation of an adult; and
- Receiving and reviewing the information generated by the 1215 notification form received from Adult Protective Services

VAPIT teams consist of a multi-disciplinary team appointed by the DA but must include representatives from law enforcement and Adult Protective Services (APS). In addition, each VAPIT shall:

1. Meet regularly, as determined by the DA or designee, but must meet at least quarterly.
2. Conduct coordinated responses and investigations of instances of suspected abuse, neglect or exploitation of adults and typically reviews APS 1215 notification forms.
3. By December 1 of each year, each DA shall cause to be filed an annual report that summarizes the work of the VAPIT for the previous calendar year with the chairs of the judiciary committee of the senate and the criminal justice committee of the house of representatives.

There are also important considerations to be taken including:

- The name of the potential/actual victim or client may only be shared outside of the VAPIT with representatives of law enforcement and organizations devoted to victims' services or advocacy unless necessary for the provision of medical, legal, housing, social welfare, or other services.
- Identifying information for the person who reports a case of suspected abuse, neglect, or exploitation of an adult shall be kept strictly confidential. The identifying information shall not be disclosed to any person or organization within or without the VAPIT unless the reporting person expressly consents to disclosure.
- If adequate resources are available, the VAPIT may maintain a database of information about past and ongoing cases, provide that identifying information about the individual victims and clients shall not be accessed by any person outside of the VAPIT.

When VAPIT was established, neither funding nor protocols were not attached which allowed flexibility for each DA to establish their own process. This toolkit provides recommendations regarding processes, protocols, ethical/philosophical considerations and other tools to help support a strong foundation. This toolkit was published in an effort to identify VAPIT efforts across the state and provide information to DA's utilizing the Michigan Model Vulnerable Adult Protocol (MI-MVP), the Tennessee Joint Task Force on Children's Justice and Child Sexual Abuse Child Protective Investigative Team Manual (2016).

Goals

Law enforcement, the DA and Adult Protective Services (APS) all have different goals which can, if not understood and respected, cause challenges with protecting an older and vulnerable adult.

The goal of law enforcement is to enforce laws to maintain order and safety in the community, and investigate suspected crimes committed in the community. The goal of the DA is to prosecute of all misdemeanor and felony offenses committed in their jurisdiction. APS is responsible for protecting the vulnerable adult. Given these differences, there are practices and principles that may conflict with each

other. In order to address this, it is important to understand the Guiding Values and Principles that TN Adult Protective Services adheres to. <https://www.napsa-now.org/about-napsa/code-of-ethics/>

Guiding Value: Every action taken by TN Adult Protective Services must balance the duty to protect the safety of the vulnerable adult with the adult's right to self-determination.

Secondary Value: Older persons and persons with disabilities who are victims of mistreatment should be treated with honesty, caring, and respect.

Principles:

- Adults have the right to be safe.
- Adults retain all their civil and constitutional rights (i.e., the right to live their lives as they wish, manage their own finances, enter into contracts, marry, etc. unless a court adjudicates otherwise).
- Adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.
- Adults have the right to accept or refuse services.

NAPSA (or APS) Practice Guidelines:

APS worker practice responsibilities include:

- Recognize that the interests of the adult are the first concern of any intervention.
- Avoid imposing personal values on others.
- Seek informed consent from the adult before providing services.
- Respect the adult's right to keep personal information confidential.
- Recognize individual differences such as cultural, historical and personal values.
- Honor the right of adults to receive information about their choices and options in a form or manner that they can understand.
- To the best of one's ability, involve the adult as much as possible in developing the service plan.
- Focus on case planning that maximizes the vulnerable adult's independence and choice to the extent possible based on the adult's capacity.
- Use the least restrictive services first whenever possible—community-based services rather than institutionally-based services.
- Use family and informal support systems first as long as this is in the best interest of the adult.
- Maintain clear and appropriate professional boundaries.
- In the absence of an adult's expressed wishes, support casework actions that are in the adult's best interest.
- Use substituted judgment in case planning when historical knowledge of the adult's values is available.
- Do no harm. Inadequate or inappropriate intervention may be worse than no intervention.

Recognizing that the investigation of older and vulnerable adult is complex, the Michigan Model Vulnerable Adult Protocol (MI-MVP) provides a "blueprint for communities to implement for the purpose of reducing harm and victimization of vulnerable adults through a coordinated team approach." The goal and philosophy were developed to assist competing priorities and to create a value-laden, person-directed frame of reference. It may be helpful for the TN VAPIT Team to adopt its own set of guiding principles to help support the juxtaposition that may come into play when addressing cases of abuse, neglect and exploitation of a vulnerable adult.

MI-MVP goals are:

The overriding philosophy of MI-MVP is to consider, first and foremost, what is best for vulnerable adults while respecting their capacity for self-determination. The following goals are the basis for this protocol:

- A. **To ensure** vulnerable adult abuse, neglect and exploitation cases are effectively investigated and prosecuted.
- B. **To reduce** trauma and provide protection and continued support for abuse victims and their families.
- C. **To improve** cooperation among professionals and agencies and to develop a common goal and methodology of improved management of adult abuse cases, including limiting the number of times a vulnerable adult is interviewed.
- D. **To encourage** open communication between all parties to resolve difficulties that may arise in the investigation of vulnerable adult abuse.
- E. **To increase** awareness and reporting of vulnerable adult abuse cases.
- F. **To promote** training for all professionals covered by MI-MVP.
- G. **To encourage** early and continued coordination and inclusion between Adult Protective Services (APS), law enforcement and prosecutors to promote efficient investigations.
- H. **To urge** consideration of the opinions and advice of all agencies involved in protecting and serving the vulnerable adult before any final decisions are made.

Types of Abuse and Indicators

The purpose of the 2015 TN Adult Protection Act (TCA.71-6-101) is to protect adults from “abuse, neglect or exploitation by requiring reporting of suspected cases by any person having cause to believe that such cases exist. It is intended that, as a result of such reports, the protective services of the state shall prevent further abuse, neglect or exploitation.” An adult is a person eighteen (18) years of age or older who, because of mental or physical dysfunction or advanced age is unable to manage such person’s own resources, carry out the activities of daily living or protect such person from neglect, hazardous or abusive situations without assistance from other and has no available willing and responsibly able person for assistance and who may be in need of protective services.

The definitions of abuse, neglect and exploitation are listed below:

- **Abuse:** includes physical and emotional abuse and involves more extreme forms of harm to the adult, including the infliction of physical pain, injury, mental anguish, unreasonable confinement, or other cruel treatment.
- **Sexual Abuse:** occurs when an adult is forced, tricked, threatened or otherwise coerced by a person into sexual activity, involuntary exposure to sexually explicit material or language, or sexual contact against such adult’s will. Sexual abuse also occurs when an adult is unable to give consent to such sexual activities or contact and is engaged in such activities or contact with another person.
- **Neglect:** occurs when the basic needs of a dependent adult are not met by a caregiver. Neglect may be unintentional, resulting from the caregiver’s lack of ability to provide or arrange for the care of services the adult requires. Neglect also may be due to the intentional failure of the caregiver to meet the adult’s needs.
- **Self-Neglect:** occurs when a dependent adult is unable to care for him/herself or obtain needed care. The impairments result in significant danger to the adult and in some situations, deterioration can occur to the point the adult’s life may be at risk.

- **Financial Exploitation:** means the improper use by a caretaker of funds that have been paid by a governmental agency to an adult or to the caretaker for the use or care of the adult.

Further definitions related to TCA 71-6-102 include:

- **Capacity to consent** means the mental ability to make a rational decision, which includes the ability to perceive, appreciate all relevant facts and to reach a rational judgment upon such facts. A decision itself to refuse services cannot be the sole evidence for finding the person lacks capacity to consent
- **Caretaker** means an individual or institution who has assumed the duty to provide for the care of the adult by contract or agreement and/or a parent, spouse, adult child or other relative, both biological or by marriage, who:
 - Resides with or in the same building with or regularly visits the adult;
 - Knows or reasonably should know of the adult's mental or physical dysfunction or advanced age; and
 - Knows or reasonably should know that the adult is unable to adequately provide for the adult's own care.

The Michigan Model Vulnerable Adult Protocol for Joint Investigations of Vulnerable Adult Abuse, Neglect and Exploitation (https://www.michigan.gov/documents/dhs/DHS-Pub-269_423962_7.pdf) provides a one page card for first responders which, among other things, provides possible flags of abuse indicators and observations.

ID TYPE: <input type="checkbox"/> Abuse <input type="checkbox"/> Neglect <input type="checkbox"/> Financial	
Physical Abuse Indicators (Possible Flags) <ul style="list-style-type: none"> ○ Bruises: black eyes, lacerations, grip mark ○ Fractures: skull, multiple – explanation? ○ Open Wounds: cuts, burns, untreated ○ Restraints: rope burns, wrists, ankles 	Neglect Observations (Possible Flags) <ul style="list-style-type: none"> ○ Intentional: hungry, dehydrated, poor hygiene/medical treatment, bedsores ○ Hazardous: unsafe living conditions ○ Malnourished: tired, lethargy, confusion ○ Adult Abandoned: long periods, unmet needs ○ Meds & Treatment: not provided/supplied
Emotional Abuse Observations (Possible Flags) <ul style="list-style-type: none"> ○ Intimidation: caregiver, threats, yelling ○ Humiliation: ridicule, opinions ignored ○ Isolated: removal from friends/family activities 	Sexual Abuse Allegations (Possible Flags) <ul style="list-style-type: none"> ○ Physical: bruising (genital, area of breasts) ○ Clothing torn, stained, bloody undergarment ○ Coercion/Force: used in unwanted acts
Financial Abuse (Possible Flags) <ul style="list-style-type: none"> ○ Larceny: property, currency, misappropriate ○ Changes: V's safekeeping, DPOA, guardian ○ Bank: accounts changed – without V choice or preference ○ Document Change: wills, trusts, deed, bills ○ Attorney - Bank notifications - Name change 	Contacts APS: _____ Hospital: _____ CREVAA Advocate: _____ Other: _____ _____

TN Investigative Agencies

There are many agencies involved with the investigation of an older or vulnerable adult. The Adult Protection Act also states that “adequate protection of adults will require the cooperation of many agencies and service providers in conjunction with the Department of Human Services due to the often complex nature of the risks to this adult group, and that services to meet the needs of this group will not always be available in each community. However, it is desirable that the following services, as well as other services needed to meet the intent of this part, be available: medical care, mental health and developmental disabilities services, including in-home assessments and evaluations; in-home services including homemaker, home-health, chore, meals; emergency services including shelter; financial assistance; legal services; transportation; counseling; foster care; day care; respite care; and other services as needed to carry out the intent of this part.”

In 2018, a brochure for the District Attorney General’s Conference was developed by the Statewide Coordinated Community Response (SCCR) in order to identify and explain the many agencies in Tennessee dedicated to the protection of older and vulnerable adults. The agencies and their goals are listed below, and the full brochure is located in the appendix (APPENDIX A)

Department of Human Services, Adult Protective Services (APS)

Investigates reports of abuse and neglect by a caregiver, financial exploitation of government funds by a caregiver, self-neglect and sexual assault. APS is not just for the elderly. APS helps adults 18 years of age or older who, because of a mental or physical impairment or advanced age, are unable to care for themselves. Additionally, APS makes referrals to resources within the community for further assistance and to help keep the individual in the safest environment. Investigations take about 60 days to complete. <https://www.tn.gov/humanservices/adults/adult-protective-services.html>

TCA Code 71-6-110 Mandatory Duty to Report: Any resident in TN who suspects abuse, neglect or exploitation of a vulnerable adult, including those over the age of 60, must make a referral to Adult Protective Services.

Department of Health (TDH)

Investigates all health care facilities and health care professionals that are licensed in Tennessee. TDH also serves as the repository for Abuse Registry referrals from all agencies of state government. <http://tn.gov/health>

Department of Intellectual and Developmental Disabilities (DIDD)

DIDD Reportable Event Management Investigations Unit conducts administrative investigations into allegations of abuse, neglect, exploitation, unexplained or unexpected deaths, and serious injuries for persons receiving assistance through TennCare’s waiver programs supporting persons with intellectual and developmental disabilities. Investigations are completed within 30 days. <https://www.tn.gov/didd>

Department of Mental Health and Substance Abuse Services (TDMHSAS)

Investigates reports for those with substance abuse and/or mental health diagnosis or potential diagnosis, and residing in, or being served by a TDMHSAS licensed facility. Investigations are strived to be completed within 60 days of the first report. <http://tn.gov/behavioral-health>

Tennessee Bureau of Investigation, Medicaid Fraud Control Division

Investigate allegations of abuse, neglect, and financial exploitation of vulnerable adults. Investigation

must have a Medicaid nexus. <https://www.tn.gov/tbi/divisions/medicaid-fraud-control-division.html>

Disability Rights Tennessee

Monitors and investigates reports of abuse and/or neglect in licensed and unlicensed facilities or programs that provide services to people of all ages with disabilities. These facilities or programs could include: board and care homes, mental health institutions, jails and prisons, nursing homes, juvenile detention facilities, residential behavioral health settings, day programs, and more. The length of monitoring or investigation is determined on a case by case basis. <http://www.disabilityrightstn.org/>

TN Commission on Aging and Disability (TCAD)

The Ombudsman Program advocates on behalf of residents living in long-term care settings such as nursing homes, homes for the aged, and assisted care living facilities to ensure the resident's rights, health, and safety are protected. Complaints are investigated within a set time frame (maximum of seven days) and the Ombudsman strives to resolve matters to the satisfaction of the resident.

<http://tn.gov/aging>

TN Commerce and Insurance

- **Securities Division:** Investigates both investment fraud and insurance agents. Investment fraud includes those who are brokers, dealers and investment advisors (ex, Ponzi and pyramid schemes, etc.). Insurance fraud investigates insurance agents (aka, misappropriation of funds). This division does not deal with consumer fraud, only the industry side for investigations. Statutorily, they have to complete insurance fraud investigations within 2 years but internally they want to complete the investigation within 6 months. Investment cases have no statutory compliance but they strive for the same time frame. <https://www.tn.gov/commerce/securities-division.html>
- **Insurance Division:** Serves as the central coordinating agency and clearinghouse for complaints by Tennessee consumers alleging unfair or deceptive acts or practices and/or violations of Tennessee insurance laws and contracts of insurance (policies) by an insurance company or agent. Consumer Insurance Services handles complaints for the entire state of Tennessee and provides education relating to insurance products. Cases are referred to the Financial Services Investigation Unit (FISU) whenever allegations of fraud and/or theft are discovered. www.tn.gov/commerce/insurance

Office of the Tennessee Attorney General

- **Division of Consumer Affairs:** Completes intakes for complaints involving a deception or unfair business practice. This division can mediate complaints between consumers and businesses. They also provide scam prevention education and presentations
- **Consumer Protection Division:** Investigates potential consumer protection violations (based on consumer complaints, media reports, complaints from legislators or other agencies, etc.) They can bring actions in the name of the State of Tennessee under the Tennessee Consumer Protection Act. Additionally, this division investigates and brings actions under the price gouging statute, unauthorized practice of law statute

More information for both divisions can be found at <https://www.tn.gov/attorneygeneral/working-for-tennessee/protecting-consumers.html>

TN Department of Financial Institutions (TDFI)

Investigates consumer complaints against financial institutions regulated by TDFI including state-chartered banks, credit unions and other consumer lenders. Once a complaint is filed, it is sent to the institution for a response which they need to complete within 15 business days. If the appropriate regulatory division (bank, credit union, compliance) needs be brought in for further review of the complaint, the length of time can be extended. TDFI works mainly with TN Commerce and Insurance and the Attorney General's Office. <http://tn.gov/tdfi>

TN Criminal Statutes Governing Older and Vulnerable Adults

- ❖ **TCA 39-15-507 Neglect of an Elderly or Vulnerable Adult**
 - It is a crime to knowingly neglect an elderly or vulnerable adult, so as to adversely affect the person's health or welfare. Neglect of an *elderly* adult is a Class E Felony. Neglect of a *vulnerable* adult is a Class D Felony.
- ❖ **TCA 39-15-510 Abuse of an Elderly or Vulnerable Adult**
 - It is a crime to knowingly abuse an elderly or vulnerable adult. Abuse of an *elderly* adult is a Class E Felony. Abuse of a *vulnerable* adult is a Class D Felony.
- ❖ **TCA 39-15-512 Sexual Exploitation of an Elderly or Vulnerable Adult**
 - It is a crime to knowingly sexually exploit an elderly or vulnerable adult. Any violation under this statute is a Class A Misdemeanor.
- ❖ **TCA 39-15-509 Failure to Report Elder Abuse**
 - Any person having reasonable suspicion that an elderly or vulnerable adult is suffering or has suffered abuse, sexual exploitation, neglect, or financial exploitation shall report such neglect or financial exploitation to Adult Protective Services. Any person who fails to make reasonable efforts to make a report commits a **Class A misdemeanor**.
- ❖ **TCA 39-15-501 Elderly and Vulnerable Adult Protection Act**
 - Enhances punishment for individuals who commit crimes against elderly and vulnerable adults.

A complete list of definitions for these criminal statutes listed can be found under TCA 39-15-501.

There are variances between certain definitions in the *Tennessee Adult Protection Act* and the *Elderly and Vulnerable Adult Protection Act*. As a result, this alters how APS and law enforcement view those concepts. Please refer to the Appendix (Appendix B) for detailed definitions.

Abuse Registry Placement

When referring a perpetrator for placement on the Abuse Registry, the criminal disposition order submitted to the Department of Health must indicate the following:

- ❖ The perpetrator was notified that, because of the conviction, the perpetrator will be placed on the abuse registry
- ❖ The offense constitutes an offense against a vulnerable person; and
- ❖ The court ordered placement on the abuse registry pursuant to this part and the clerk is required to forward such judgment to the Department of Health

All Abuse Registry referrals from the court must include the following:

- Perpetrator's name (as complete as possible)
- Perpetrator's Social Security Number

- Perpetrator's Date of Birth
- Perpetrator's last known mailing address
- Copies of indictments or other court documents which will assist in determining that the victim was a vulnerable person and provide an understanding of the related event.
- A stamped, filed copy of the judgment that has either the box checked that the accused agrees to placement, the box checked that the court ordered placement or notations in the special conditions box that orders placement; If the order used does not contain such checkboxes, notate on the order that the perpetrator agrees to placement, and the court orders placement on the registry.

Placement criteria and registry related processes for each state investigative agency can be found in the Appendix (Appendix C). A checklist which can be used to ensure that all require information and documentation is attached to the registry referral can be found in the Appendix (Appendix D).

Common VAPIT Members & Procedures

A well-organized VAPIT promotes cooperation among law enforcement and various state agencies. It can also improve understanding of each member agency's abilities and limitations. The District Attorney has sole discretion regarding how a VAPIT functions and who can participate. Thus, VAPITs can operate differently across the state to ensure that they meet the needs of the community. For example, in some districts, meetings are held on regularly scheduled dates, such as monthly or quarterly. In other districts meetings are held on an "as needed" basis. In some districts there is a regular list of attendees from various agencies such as:

- Collaborative Response to Elder and Vulnerable Adult Abuse (CREVAA)
- Adult Protective Services (APS)
- Tennessee Bureau of Investigation (TBI)
- Long Term Care Ombudsman (LTCO)
- Law Enforcement
- Public Guardian
- Department of Intellectual and Developmental Disabilities (DIDD)
- Department of Mental Health and Substance Abuse Services (DMHSAS)

In other districts, attendees are directly related to the cases being presented which means the group of attendees can change from meeting to meeting. Additionally, some District Attorneys send a docket to the agencies in advance of the meeting for better productivity in the meeting and amongst attendees.

VAPIT Teams in TN

A well-functioning VAPIT relies heavily on strong relationships between partner agencies. Positive communication and cooperation among team members is essential to the effectiveness of VAPIT. One example of an effective VAPIT can be found in Davidson County. Key elements of the Davidson County VAPIT include:

- ❖ Static meeting date (2nd Tuesday of each month)
- ❖ Diverse membership

- Members include representatives from the Davidson County District Attorney's Office, TBI, Metro Nashville Police Department (MNPd), APS, DIDD, TDMHSAS, CREVAA, and the Long-Term Care Ombudsman program.
- ❖ Preparation prior to the meeting
 - The Assistant District Attorney speaks with the APS Team Coordinator for Davidson County to review all the 1215 Notification forms set to be reviewed during the next meeting. The purpose of this review is to determine which cases have potential criminal allegations and which ones involve mostly service provision issues. This preparation ensures that the meeting is productive and efficient. Currently, the average Davidson County VAPIT meeting lasts 90 minutes to two (2) hours. Without prioritizing cases, meetings would last an entire day due to the large volume of 1215 Notification forms received during the month.
- ❖ Documentation
 - The cases with the potential criminal allegations are maintained in a spreadsheet, which is referred to as a docket. The docket is emailed to the VAPIT members a few days prior to the meeting. That docket carries over month to month with the closed cases being removed and the new cases are added. The spreadsheet is maintained in an Excel workbook which contains a tab for each month of the year. Every month a new tab is created in the workbook by copying the spreadsheet from the previous month. Duplicating the spreadsheets from one month to the next ensures that the group can keep track of all cases. Some VAPITS work from two dockets: Simple and Complex. The complex docket is more comprehensive and contains more details of every case reported to VAPIT. The simple docket contains only cases discussed during the VAPIT meeting. It contains less details and is used to track the disposition of each case.
 - Common fields for a docket:
 - Name/Age of Alleged Victim
 - Date of Incident
 - Type of Referral (Physical Abuse, Emotional Abuse, Financial Exploitation, Sexual Abuse, or Neglect)
 - Name of Alleged Perpetrator & Relationship to Alleged Victim
 - Name of individual & Agency investigating allegations
 - Case Status

The success of the Davidson County VAPIT is due to the investment of its members. They brainstorm the best way to assist victims and communicate between meetings about any changes in the case status. There is cooperation among the members, as well as an understanding of each agency's abilities and limitations. The team is working together toward a common goal.

Sample VAPIT dockets can be found in the Appendix (Appendix E).

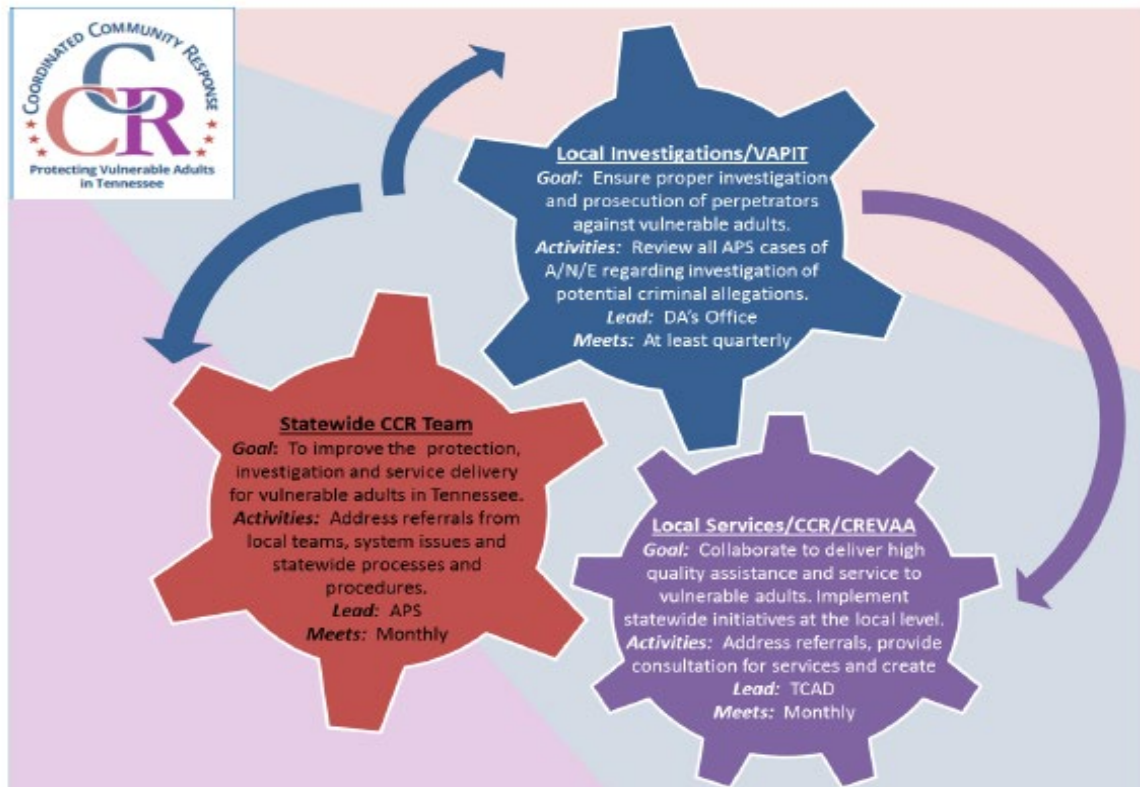
Addressing Challenging Situations in TN

Even with an established VAPIT team, there may still be concerns that are not able to be addressed at the local level. In 2016, a State CCR comprised of 18 agencies that address abuse of older and vulnerable adults, began meeting on a monthly basis. Although the State CCR can address any issue, the four (4) workgroups are:

1. Financial Exploitation

2. Investigations/Abuse Registry Placements
3. Coordinated Services
4. Unlicensed Facilities.

A model has been developed to improve communication between the local and state teams for maximum benefit.



The three (3) cogs in the wheel are existing processes: two (2) of them are at the local level (Local Investigations/VAPIT and Local Services) and the State Coordinated Community Response (CCR).

How can your VAPIT team receive help from the State CCR? If there are gaps in care that cannot be resolved or another issue preventing the best quality care that your local team has discussed, send an email to the State CCR Lead (currently Patti.Tosti@tn.gov) and explain the nature of the issue and what support/resource is needed to address it. The only request we have is for you to attempt to resolve the issue at the local level first with VAPIT team. If consulting your local VAPIT is not an option, contact Patti Tosti to help connect you with your local District Attorney.

This model, when executed consistently, will produce a standardized and efficient method of communication and problem-solving. It is important that the model be flexible enough to meet local needs and systematic enough to ensure important issues are not missed. We hope this model creates greater accountability and increased collaboration, both of which will improve the protection of our most vulnerable adults.

Appendices

Appendix A: DA Brochure

Appendix B: Law Enforcement & APS Statute Definition Comparison Chart

Appendix C: Investigative Agency Abuse Registry Placement Information

Appendix D: Court Registry Referral Checklist

Appendix E: Sample VAPIT dockets (Simple and Complex)



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Coordinated Community Response



Investigative Agencies in Tennessee Responding to Abuse of Vulnerable Adults

For more information, please contact:

Patti Tosti,
Interagency Collaboration & Research Program Director
Patti.Tosti@tn.gov, 615-313-4726



The Tennessee Department of Human Services, Coordinated Community Response (CCR) to Protect Vulnerable Adults by TN State Agencies is supported by Adult Protective Services with funding by the Administration for Community Living. Our GOAL is to improve the investigation, response and delivery of protective services to vulnerable adults in Tennessee.

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DIDD Reportable Event Management Investigations Unit conducts administrative investigations into allegations of abuse, neglect, exploitation, unexplained or unexpected deaths, and serious injuries for persons receiving assistance through TennCare's waiver programs supporting persons with intellectual and developmental disabilities. Investigations are completed within 30 days. <https://www.tn.gov/didd>

Department of Mental Health and Substance Abuse Services (TDMHSAS)

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Tennessee Bureau of Investigation, Medicaid Fraud Control Division

Investigate allegations of abuse, neglect, and financial exploitation of vulnerable adults. Investigation must have a Medicaid nexus. <https://www.tn.gov/tbi/divisions/medicaid-fraud-control-division.html>

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Disability Rights Tennessee

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Insurance Division: Serves as the central coordinating agency and clearinghouse for complaints by Tennessee consumers alleging unfair or deceptive acts or practices and/or violations of Tennessee insurance laws and contracts of insurance (policies) by an insurance company or agent. Consumer Insurance Services handles complaints for the entire state of Tennessee and provides education relating to insurance products. Cases are referred to the Financial Services Investigation Unit (FISU) whenever allegations of fraud and/or theft are discovered. www.tn.gov/commerce/insurance

Office of the Tennessee Attorney General

Division of Consumer Affairs: Completes intakes for complaints involving a deception or unfair business practice. This division can mediate complaints between consumers and businesses. They also provide scam prevention education and presentations

Consumer Protection Division: Investigates potential consumer protection violations (based on consumer complaints, media reports, complaints from legislators or other agencies, etc.) They can bring actions in the name of the State of Tennessee under the Tennessee Consumer Protection Act. Additionally, this division investigates and brings actions under the price gouging statute, unauthorized practice of law statute

More information for both divisions can be found at <https://www.tn.gov/attorneygeneral/working-for-tennessee/protecting-consumers.html>

TN Department of Financial Institutions (TDFI)

Investigates consumer complaints against financial institutions regulated by TDFI including state-chartered banks, credit unions and other consumer lenders. Once a complaint is filed, it is sent to the institution for a response which they need to complete within 15 business days. If the appropriate regulatory division (bank, credit union, compliance) needs to be brought in for further review of the complaint, the length of time can be extended. TDFI works mainly with TN Commerce and Insurance and the Attorney General's Office. <http://tn.gov/tdfi>

Appendix B

Law Enforcement & APS Statute Definition Comparison Chart

Term	Law Enforcement Definition	APS Definition
“Elderly”	Age 70 & Older	Age 60 & Older
“Financial Exploitation”	<ul style="list-style-type: none"> • The use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly or vulnerable adult's property with the intent to deprive the elderly or vulnerable adult of property • The breach of a fiduciary duty to an elderly or vulnerable adult by the person's guardian, conservator, or agent under a power of attorney which results in an appropriation, sale, or transfer of the elderly or vulnerable adult's property • The act of obtaining or exercising control over an elderly or vulnerable adult's property by a caregiver committed with intent to benefit the caregiver or other third party 	The improper use by a caretaker of funds that have been paid by a governmental agency to an adult or to the caretaker for the use or care of the adult
“Neglect”	<ul style="list-style-type: none"> • The failure of a caregiver to provide the care, supervision, or services necessary to maintain the physical health of an elderly or vulnerable adult, including, but not limited to, the provision of food, water, clothing, medicine, shelter, medical services, a medical treatment plan prescribed by a healthcare professional, basic hygiene, or supervision that a reasonable person would consider essential for the well-being of an elderly or vulnerable adult; • The failure of a caregiver to make a reasonable effort to protect an elderly or vulnerable adult from neglect or financial exploitation by others; • Abandonment; • Confinement <p>NOTE: Neglect can be the result of repeated conduct or a single incident</p>	The deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult or a situation in which an adult is unable to provide or obtain the services that are necessary to maintain that person's health or welfare.

Appendix C: State Investigative Agency Abuse Registry Placement Information

Agency	Criteria for Placement	Length of Placement	Process for Removal from Registry
Department of Mental Health and Substance Abuse Services (TDMHSAS)	<ul style="list-style-type: none"> • Substantiated allegation of abuse, neglect, and/or financial exploitation • Recommendation from ARC for placement • ARC recommendation approved by TDMHSAS Commissioner 	<ul style="list-style-type: none"> • An individual must be on the registry for three (3) years before an application for removal can be submitted. 	<ul style="list-style-type: none"> • Submit the application for removal • Application is reviewed by an Abuse Registry Advisory Group which will make a recommendation to the Commissioner • TDMHSAS Commissioner reviews the recommendation • If removal is approved, a written decision will be provided to TDH along with a request to remove the individual from the registry
Department of Intellectual and Developmental Disabilities (DIDD)	<ul style="list-style-type: none"> • Three (3) or more Class II substantiations within a 24 consecutive month period OR a single Class I substantiation • The case(s) is subject to the due process system administered through the Office of Administrative Appeals • Placement may be made (1) as a result of failure to comply with the requirements of due process, which may lead to immediate placement on the registry without a hearing; (2) based upon the waiver of a hearing; (3) pursuant to settlement agreement; or (4) upon order by an Administrative Law Judge after a hearing 	<ul style="list-style-type: none"> • Unless an order or settlement agreement prescribes a specific length of time, individuals placed on the registry will remain until removed by the court or the placing agency • The individual must be placed on the registry for a period of three (3) years before being eligible to submit an application for removal 	<ul style="list-style-type: none"> • Submit an application for removal; Application is reviewed by the Abuse Registry Advisory Group, which will make a recommendation to the Commissioner • DIDD Commissioner reviews the recommendation and makes a determination.** • If removal is approved, a written decision will be provided to TDH along with a request to remove the individual from the registry
Department of Health (TDH)	<ul style="list-style-type: none"> • Substantiated allegation of abuse, neglect, or misappropriation of personal property of a vulnerable person • Recommendation from Abuse Panel (AP) for placement 	<ul style="list-style-type: none"> • Certified Nurse Aides are placed permanently per CMS federal guidelines; can only be removed for one (1) incident of neglect after one (1) year • All others can apply 	<ul style="list-style-type: none"> • Complete application • Abuse Registry Panel reviews and makes decision

Appendix C: State Investigative Agency Abuse Registry Placement Information

	<ul style="list-style-type: none"> • Due process in accordance with UAPA (Uniform Administrative Procedures Act) 	<p style="text-align: center;">after 1 year</p>	
<p>Department of Human Services/Adult Protective Services (TDHS/APS)</p>	<ul style="list-style-type: none"> • Substantiated allegation of abuse, neglect, and/or financial exploitation • Recommendation for placement from the Due Process Committee 	<ul style="list-style-type: none"> • An individual must be on the registry for three (3) years before a request for removal can be submitted. 	<ul style="list-style-type: none"> • Submit a request in writing accompanied by three (3) letters of recommendation, two (2) current work references, and a signed release from the Tennessee Department of Human Services (TDHS) to obtain employment and personnel records • Complete a TBI background check no more than three (3) months prior to application for removal • Request is reviewed by an Advisory Committee • Final decisions of the Advisory Committee will be submitted to the TDHS Commissioner (or designee) for approval. • The final decision may be appealed within ten (10) days of the date of the Commissioner’s decision. • If request for removal is denied, the individual must wait three (3) years from the date of the denial to request removal again.

**As November 2020, the DIDD application to request removal from the Abuse Registry and the policy which governs it are under revision.

Adult Abuse Registry Court Referral Checklist

All Abuse Registry referrals from the court must include the following:

- Defendant's name (as complete as possible)
 - Defendant's Social Security Number
 - Defendant's Date of Birth
 - Defendant's last known mailing address
 - Copies of indictments, arrest warrants, affidavits, or other court documents which will assist in determining that the victim was a vulnerable person and provide an understanding of the related event
 - A stamped, filed copy of the plea form/judgment that contains at least one of the following:
 - Checkbox selected indicating that the defendant agrees to placement on the Registry
- AND**
- Checkbox selected indicating that the court has ordered placement on the registry,
- OR**
- A notation in the Special Conditions box indicating the court has order placement

If the plea form/judgment does **not** contain checkboxes, the following information must be notated on the judgment:

- The signatures of all parties (defendant, defense counsel, & prosecutor) must be present on the plea form/judgment.
- The plea form/judgment must contain the following language:

“Placement on the Abuse Registry is required. The Clerk will forward a copy of this judgment to the Department of Health.”

