



“Best Practices for Administrative/Criminal Prosecution in Adult Protection”

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Adult Protection Maltreatment Reports in the News

“Apartment manager sentenced for theft.” *Park Rapids Enterprise*, 3/24/18.

“Man faces felonies after financial crimes against family.” *Isanti County News*, 3/22/18.

“Left to suffer.” *Star Tribune*, 11/12/17 – 11/16/17 (five part series).

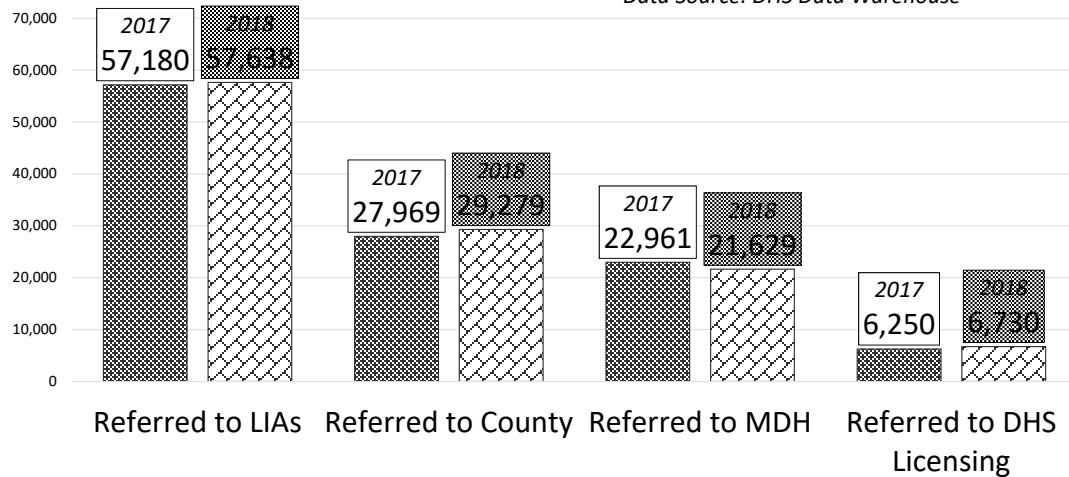
“Hugo man sentenced to 26 years for raping woman with disabilities.” *Pioneer Press*, 3/16/18.

“Male aid gets 1-year sentence in sexual assault of 78 year old MN woman.” *Star Tribune*, 11/22/17.

“Woman charged with financially exploiting family member.” *Albert Lee Tribune*, 8/3/17.

Statewide LIA Data 2017-18

Data Source: DHS Data Warehouse



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Learning Objectives

- Identify state policy and procedures guidance for adult protective services (APS) work with vulnerable adults suspected of experiencing maltreatment
- Describe Minnesota's APS administrative-civil vs. criminal investigation process
- Apply tools and procedures used by APS into a legal proceeding
- Procedures & expectations to support APS workers testimony

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MN Adult Protection Policy *(slide 1 of 2)*

VAA (626.557) outlines state policy for the protection of vulnerable adults and establishes the adult protection system

Foundations are reporting, referral and response including offering adult protective services and investigation of suspected maltreatment in appropriate cases.

VAA allows and requires cooperation and coordination between:

- County and Tribal Agencies
- State Licensing Agencies
- Law Enforcement
- Licensed Providers
- Prosecutors
- State Court System

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MN Adult Protection Policy *(slide 2 of 2)*

APS Policy

- Safe services and environments for people using state services
- Offer services and counselling to people who are vulnerable
- Encouraging reporting of suspected maltreatment by any person
- Requiring reporting by mandated reporters

Lead Investigative Agencies (LIAs) are:

- Adult Protective Services County/Tribal social service agencies
- MN Department of Human Services Licensing Division (DHS)
- MN Department of Health (MDH)

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National Adult Protective Services (NAPSA) Code of Ethics

Principles

- Adults have the right to be safe
- Adults retain all their civil and constitutional rights
- Adults have the right to make decisions that do not conform with societal norms
- Adults have the right to accept or refuse services

MN – APS has adopted the NAPSA Code

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Establishing Expertise of the Adult Protection Administrative Investigator as an Expert Witness

Curriculum Vitae

- Degree in related field
- Experience in Social Worker
- Years of Service
- Years of APS Experience
- Number of APS Investigations

Training

- APS Foundations Assessment and Investigation (DHS)
- 8 hours Annual Continuing Ed (DHS)
- Case Management -Social Services Information System (SSIS) (DHS)
- Professional associations and conferences

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Tools for an APS Investigation: Minnesota APS Policy and Procedures

- Statutory authority and requirements
- DHS -Adult Protection Policy and Procedure Manual
- Adult Protection Standardized Tools



Minnesota Statutory Authority *Adult Protection Statutes: 626.557 and 626.5572*

 Minnesota Legislature

House ▾ Senate ▾ Joint ▾ Schedules ▾ Committees ▾ Bills ▾ Law ▾ Multimedia ▾ Publications ▾

 Office of the Revisor of Statutes

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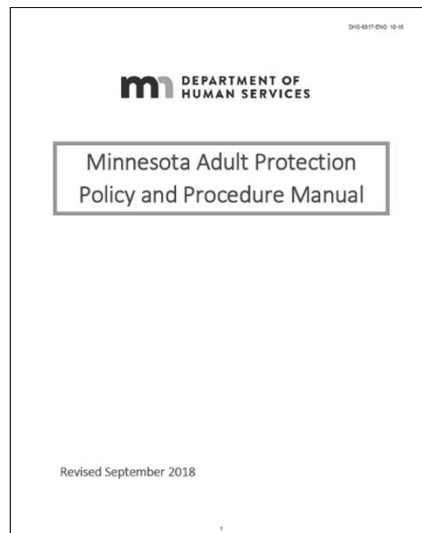
[2018 Minnesota Statutes](#) > [CRIMINAL PROCEDURE; PEACE OFFICERS; PRIVACY OF COMMUNICATIONS](#) > [Chapter 626](#) > [Section 626.557](#)

◀ 626.5565

2018 Minnesota Statutes

626.557 REPORTING OF MALTREATMENT OF VULNERABLE ADULTS.

Adult Protection Policy and Procedure Manual



Glossary

Program Administration

Time Frames

County Duties

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Minnesota Adult Protection Standardized Tools

SDM® Intake Assessment

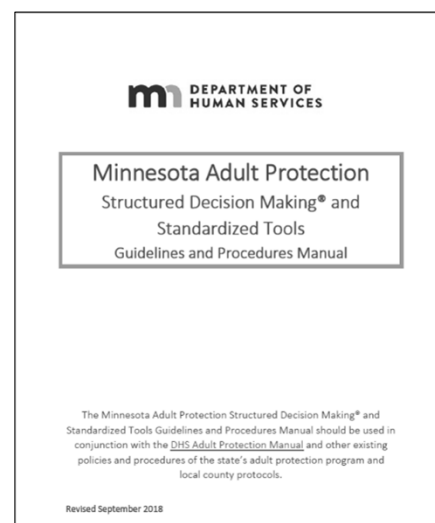
SDM® Initial Safety Assessment

SDM® Strengths and Needs
Assessment/Reassessment

EPS Intake Tool

Final Safety Assessment

Safety Plan Template



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Benefits of Standardized Tools

APS Staff


- Promotes Safety of People who are Vulnerable
- Focuses Resources and Services on Vulnerable Adults who are Unsafe
- Reduces Maltreatment by Guiding Intake, Safety Assessment, and Planning
- Creates Documentation of Decision-Making by Adult Protection

Clients

- Strengths Based Assessments
- Consistent Safety Standards
- Interventions Based on Priority Need
- Person Centered Support
- Transparency in Assessment, Planning and Intervention

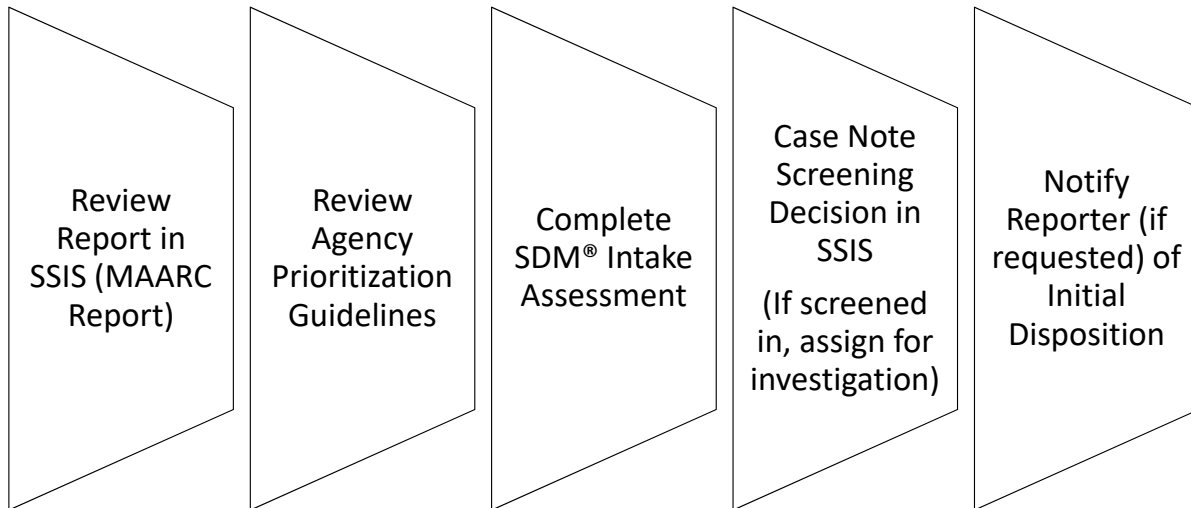
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APS Investigation Process

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- Preparation
 - Documentation
 - People Involved

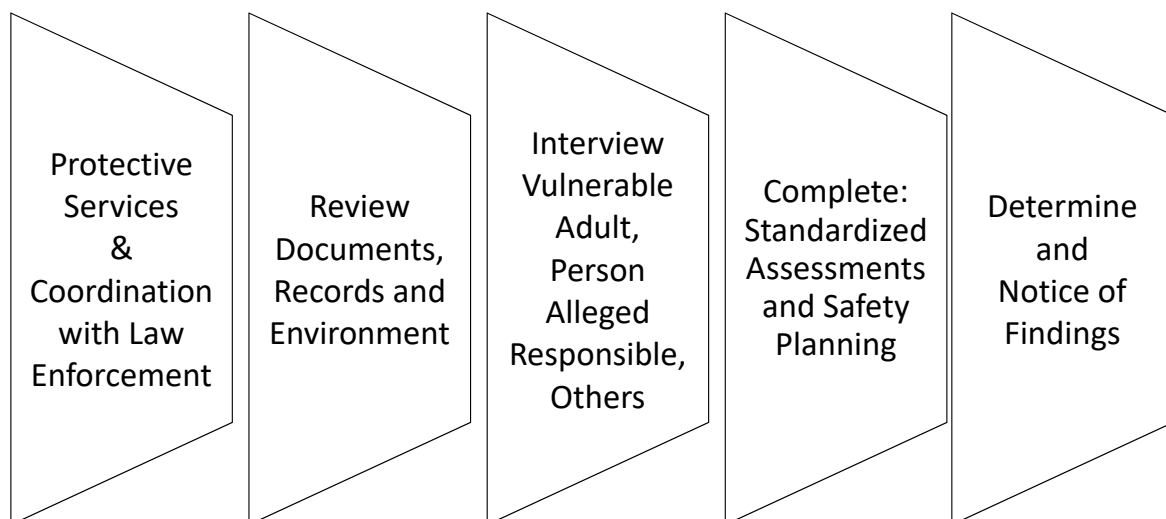
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What Is “Intake” for a VA Maltreatment Report?



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APS With Vulnerable Adults



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APS-LIA Preponderance Threshold -51%

APS is responsible for conducting an investigation and making determinations based on evidence:

- Is the victim is a VA?
- Is the alleged incident maltreatment? 51%
- Who was responsible?

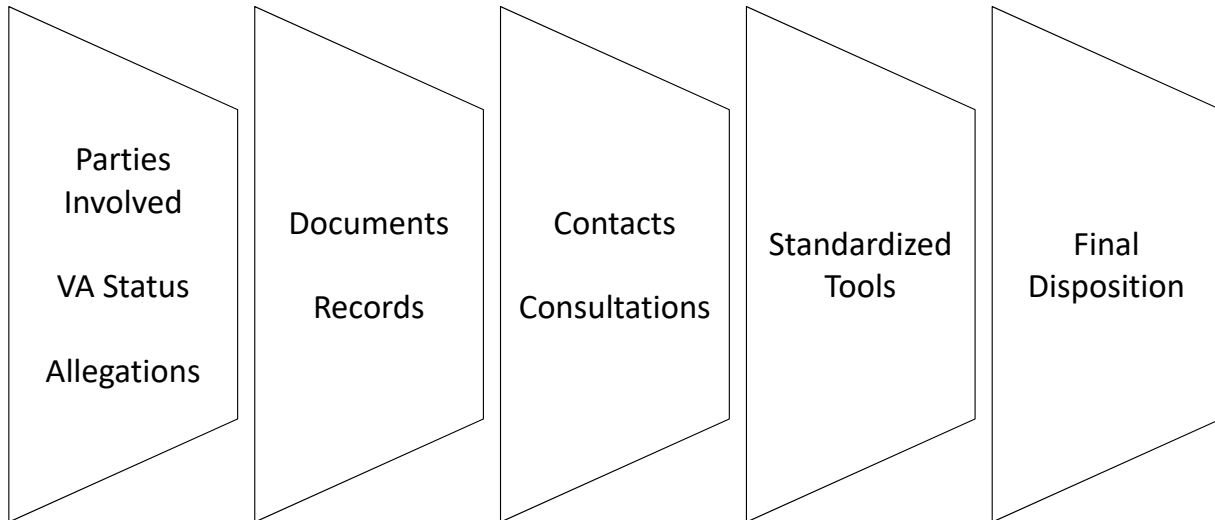
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Investigation Summary

- 
- Recommended
 - Useful tool appeals and criminal

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Investigation Summary Pieces



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Administrative Investigation Determinations

"Final disposition" is the determination of an investigation by a lead investigative agency regarding a report of maltreatment.

False

Substantiated

Inconclusive

No Determination – Not a Vulnerable Adult

No Determination – Investigation Not Possible

Preponderance of Evidence
How do we get to 51%?

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Reconsideration and Appeals

Two separate tracks for an APS case

Vulnerable Adult/Interested Person

LIA Reconsideration

Adult Maltreatment Review Panel

Panel Response

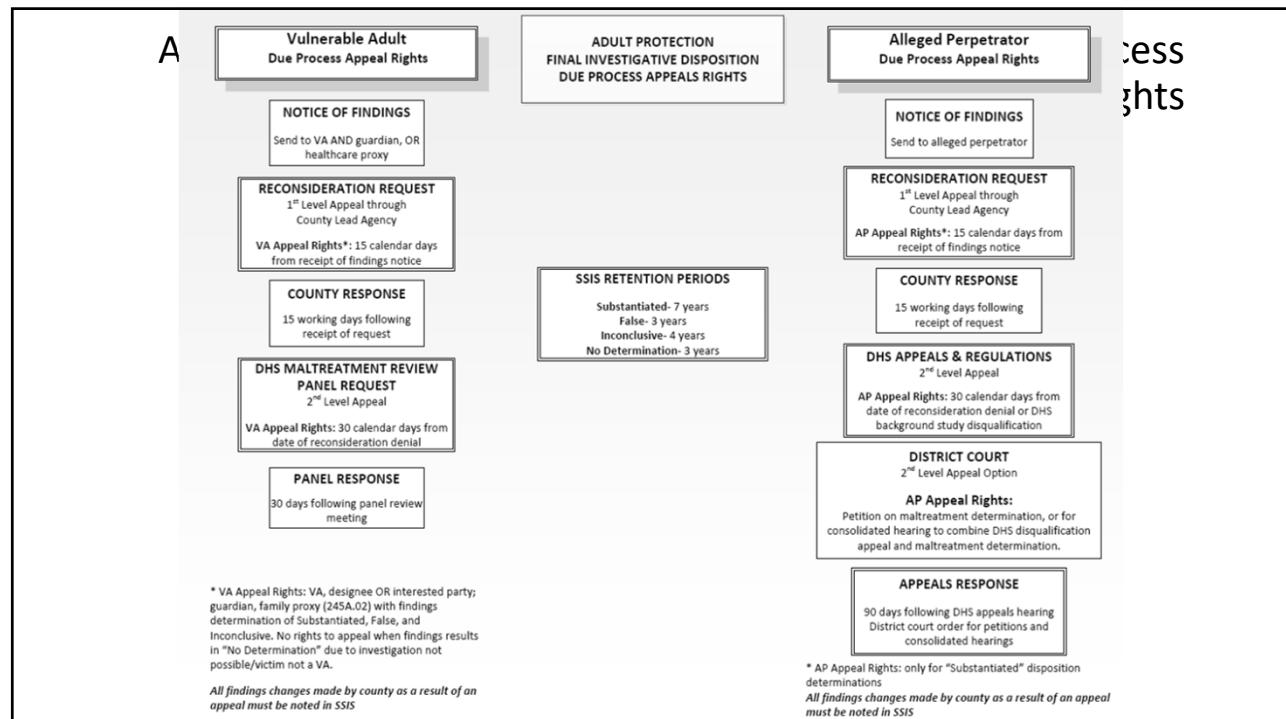
County Response

Alleged Perpetrator

LIA Reconsideration

Commissioner of Human Services
Hearing (commonly referred to as
“Fair Hearing”)

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APS Civil-Administrative vs. Criminal Investigations



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Common Crimes to Vulnerable Adults

Criminal abuse 609.2325

Caregiver neglect 609.233

Financial exploitation 609.2335

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What Constitutes Criminal Abuse?

A caregiver who, with intent to produce physical or mental pain or injury to a vulnerable adult, subjects a vulnerable adult to:

- any aversive or deprivation procedure;
- unreasonable confinement; or
- involuntary seclusion.

Minn. Stat. §609.2325 Subd. 1(a)

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What Constitutes Criminal Neglect?

Gross Misdemeanor when caregiver:

- fails to provide necessary food, clothing, shelter, health care, or supervision; or
- knowingly permits conditions to exist that result in abuse or neglect

Felony deprivation when caregiver:

- is reasonably able to provide necessary provisions listed above and doesn't; and
- knows or has reason to know that deprivation would result in substantial or great bodily harm; or
- neglects over extended period of time

Minn. Stat. §609.233 Subd. 1(a)

What Constitutes Criminal Financial Exploitation?

Breach of Fiduciary Obligation:


- Intentionally failing to provide necessities or supervision
- Depriving VA of access to their own resources
- Using resources for someone other than the VA

Anyone, without legal authority:

- Acquires VA's resources through undue influence, duress, coercion
- Forces a VA to perform services against their will for profit of another; or
- Establishes fiduciary relationship via undue influence, duress, or other enticement

Minn. Stat. §609.2335 Subd. 1

Let's Get More Specific

- 
- Abuse
 - Neglect
 - Financial Abuse

Physical Abuse Possible Crimes

Civil

- Assault
- Biting
- Hitting/Kicking
- Unreasonable, involuntary confinement §626.5572 Subd. (b)

Criminal

- Assault §609.221 to 609.224
- False imprisonment §609.225 Subd. (2)

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Emotional Abuse Possible Crimes

Civil

- Threats
- Humiliation
- Derogatory remarks
- Harassment
- Malicious written, oral, or gestured language §626.5572 Subd. (b)(2)

Criminal

- Assault in the Fifth Degree §609.224
- Stalking crimes §609.749
- Criminal Defamation §609.765
- Harassment §609.748
- Coercion §609.27
- Terroristic Threats §609.713

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Criminal Neglect – MN Stat. §609.233

Subd. 1. Gross Misdemeanor - A caregiver or operator who intentionally neglects a vulnerable adult; or knowingly permits conditions to exist that result in the abuse or neglect

Subd. 1(a) Felony Neglect - Intentionally depriving a vulnerable adult of necessary food, clothing, shelter, health care, or supervision, when

- (1) the caregiver knows the deprivation could likely result in great bodily harm to the vulnerable adult; or
- (2) the deprivation occurred over an extended period of time.

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Financial Exploitation

Civil

In breach of a fiduciary obligation, a person:

- (2) fails to use the financial resources of the VA to basic care for the VA and the failure results in detriment to the VA
- (1) engages in unauthorized expenditure of funds entrusted to the actor by the VA which results or is likely to result in detriment to the VA

§626.5572 Subd. 5(a)

Criminal

Caregiver intentionally breaches fiduciary obligation by:

- i. failing to provide necessities or supervision;
- ii. depriving VA of access to their own resources; or
- iii. using resources for someone other than the vulnerable adult

§609.2335 Subd. 1(1)

Testifying Options for an APS Investigator

- | | |
|---|---|
| <ul style="list-style-type: none"> • Determination of VA status • Expertise for the process of an APS Administrative Investigation • Policies and procedures are governed by MN Statute and the MN DHS Policy and Procedures | <ul style="list-style-type: none"> • Timeline of events • Investigation Summary • Collection of records by statutory authority <ul style="list-style-type: none"> • Bank • Medical • Mental Health • Experts regarding maltreatment |
|---|---|

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Adult Protective Services Resources

- **DHS APS Partners and Procedures** <https://mn.gov/dhs/partners-and-providers/policies-procedures/adult-protection/>
- **Adult Protection Policy and Procedure Manual**
<https://edocs.dhs.state.mn.us/lfservlet/Public/DHS-6917-ENG>
- **APS Structured Decision Making and Standards Tools Guidelines and Procedures Manual**
<https://edocs.dhs.state.mn.us/lfservlet/Public/DHS-6762A-ENG>
- **MCAA APS Email Consultation Listserv** salbrecht@mcaa-mn.org

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Thank you!

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