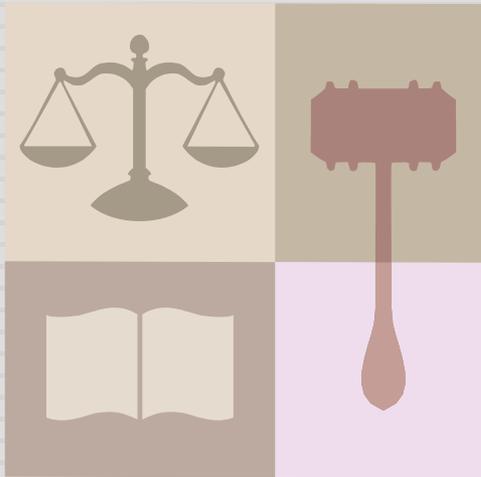


# Idaho Adult Protection Services

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## ROLES, RESPONSIBILITIES AND CONSTRAINTS

May 2012



*Idaho statute mandates the Adult Protective Services (APS) program.*

- The APS program is administered by Idaho Commission on Aging. Provision of services are accomplished by contract with each of the commission's local Area Agencies on Aging.

- **Education** – Provide education on the APS program, abuse, neglect, self-neglect and exploitation of vulnerable adults to professional groups and the community;
- **Collaboration** – Collaborate with service providers to find solutions to complex adult protection issues; and
- **Protection** – Protect vulnerable adults from abuse, neglect, self-neglect and exploitation.

Educational activities focusing on the APS program, abuse, neglect, self-neglect or exploitation of vulnerable adults are provided to the community and professional groups through:

- Facilitated training events;
- Participation at senior or community events;
- Information for media release; and
- Written materials, such as brochures or fraud alerts.



- Adult Protection Services encourages collaboration between the APS program and other professional groups and agencies that serve or investigate mistreatment of vulnerable adults.

*Collaboration helps insure the best possible services and outcomes for the adult.*



Inter-agency agreements that outline each agency's role in an investigation and/or the provision of services are developed between local agencies, such as:

- Law enforcement
- Mental health
- Department of Health and Welfare
- Long-term Care Ombudsmen

- Inter-agency teams are comprised of representatives from a variety of professions and agencies that can best meet the needs of the vulnerable adult population.
- Each Adult Protection Services program is required to provide community education, either on its own or in collaboration with the inter-agency teams.

APS programs provide for the safety and protection of vulnerable adults that are, or are suspected to be, victims of abuse, neglect, self-neglect or exploitation by:



- Receiving reports of abuse, neglect, self-neglect or exploitation;
- Investigating allegations and conducting an assessment; and
- Offering referral to and arranging for provision of emergency or supportive services to reduce or eliminate risk of harm.

## Vulnerable Adult

- A person 18 years or older who:
  - Is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person.

**Abuse** includes:

- Infliction of injury
- Unreasonable confinement
- Intimidation
- Cruel punishment with resulting physical harm, pain or mental anguish
- Deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness

**Neglect** includes:

- Failure of a caretaker to provide food, clothing, shelter, or medical care reasonably necessary to maintain the health or safety of an older individual; or
- Self-neglect

**Self-Neglect** means:

An adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including –



- Obtaining essential food, clothing, shelter, and medical care;
- Obtaining goods and services necessary to maintain physical health, mental health, or general safety; or
- Managing one's own financial affairs.

**Exploitation** means:

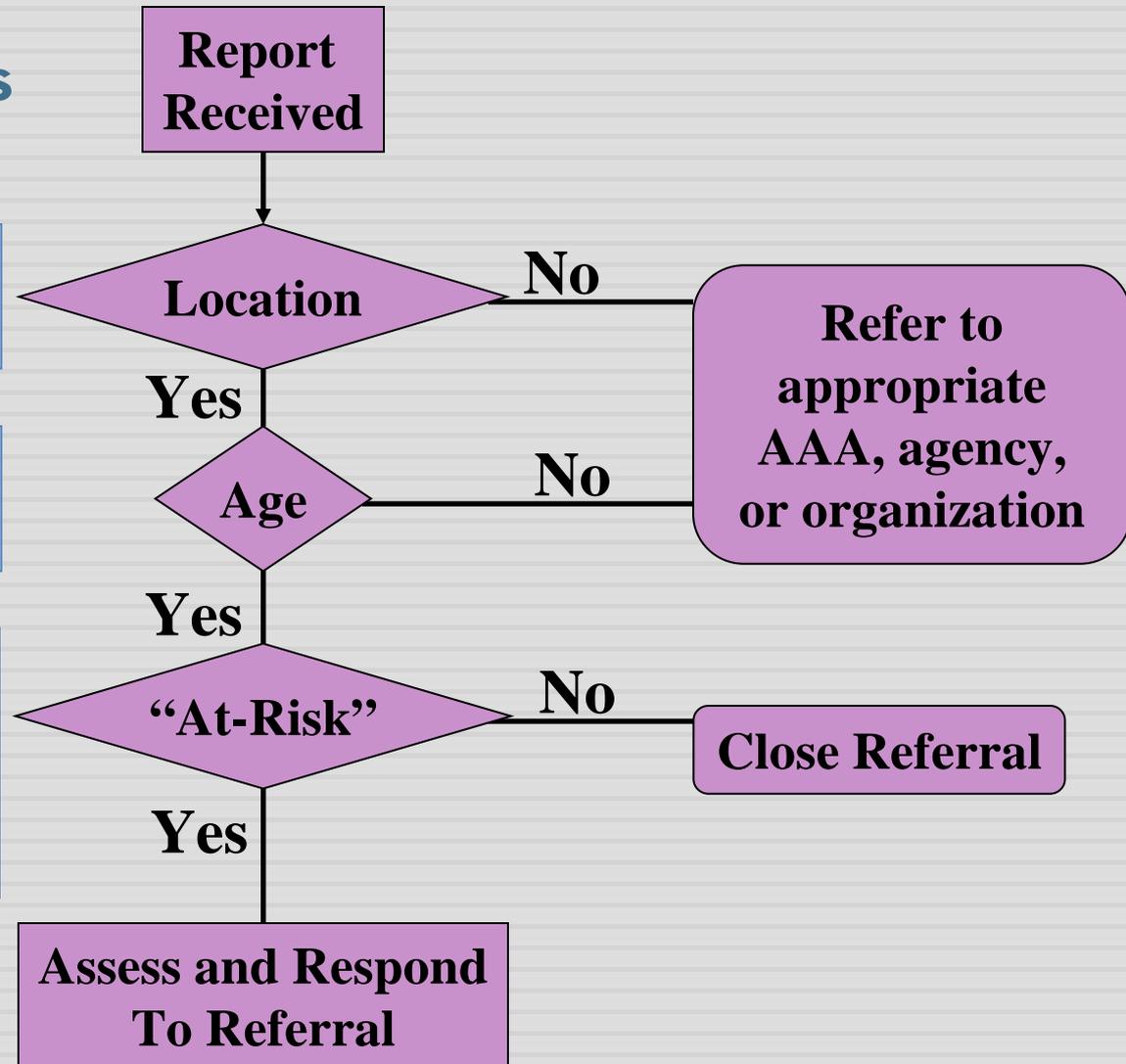
- An action which may include, but is not limited to, the unjust or improper use of a vulnerable adult's financial power of attorney, funds, property, or resources by another person for profit or advantage.

## APS Referral Process

Does the person live within the AAA jurisdictional area?

Is the person 18 years or older?

Is the person a vulnerable adult and at risk of abuse neglect, self-neglect or exploitation?



- **APS has two responses to incoming reports:**
  - Provide information and/or refer to the Information and Assistance Program when the allegation does not involve abuse, neglect, self-neglect or exploitation of a vulnerable adult; or
  - Conduct an investigation of the allegations and the adult's overall well-being and provide protective services, when appropriate.

- **Confidentiality** – APS programs are required to keep report and case information confidential, except in very limited circumstances;
- **Self-Determination** – Adults have the right to make his/her own decisions, even if those decisions may not be what most people would determine to be good decisions; and
- **Least Restrictive Intervention** – Intervention should be for the shortest time possible and with services that are the least intrusive necessary to keep the adult safe.

## Confidentiality

- Idaho statute requires that all reports to APS and all subsequent case information remain confidential unless a court orders a release of information for good cause.



## Confidentiality

- APS may release essential information without a court order only when required to provide protective services or for a report to law enforcement to investigate possible criminal activities.
- Disclosure of information is limited to only the information necessary to arrange services or to assist in a criminal investigation.

## Self-determination and Consent

- Self-determination is the right of an adult to choose one's own course of action and/or outcomes without coercion.

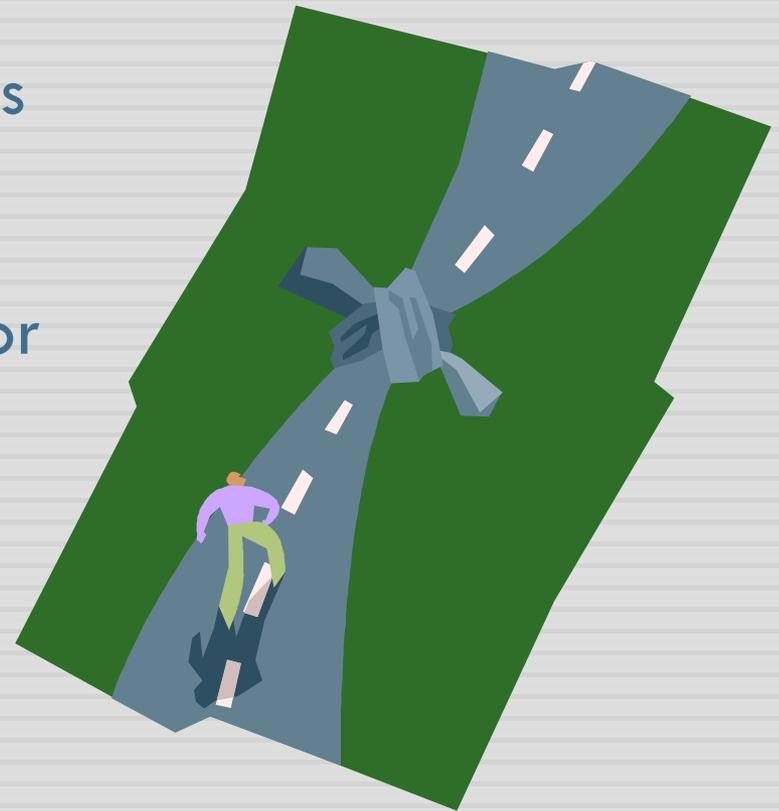


*The APS caseworker is required by statute and through the ethical principal of self-determination to get consent from the adult prior to providing any services.*

## Least Restrictive Intervention

- When a vulnerable adult consents to services, the APS caseworker has an ethical and statutory requirement to assist the adult in obtaining available services that constitute the **least restrictive intervention**.
- These are services implemented for the shortest duration and to the minimum extent necessary to reduce the risk of the vulnerable adult.

**Limitations** – Statutory requirements or other restrictions and factors beyond its control may prevent Adult Protection Services from intervening and/or providing protective services.



## Right to Refuse

Even after consenting to services a vulnerable adult may refuse to allow access to records or persons that could aid in providing those services, such as:

- Obtaining medical or bank records;
- Interviewing a suspected perpetrator; or
- Working with family to establish a care plan.

## Right to Refuse

- Self-determination means that a vulnerable adult has the right to refuse services. If the adult refuses APS assistance and appears capable of understanding the consequences of doing so, he or she cannot be forced to accept any services.
- For example, a caseworker may determine that an adult would benefit from meal preparation services and home health care. The adult agrees to meal services and refuses home health care.

## Lifestyle Choices

Unless there is a law, code, or ordinance prohibiting or limiting a choice, the vulnerable adult has the right to make lifestyle choices that others feel are objectionable or even dangerous, such as:

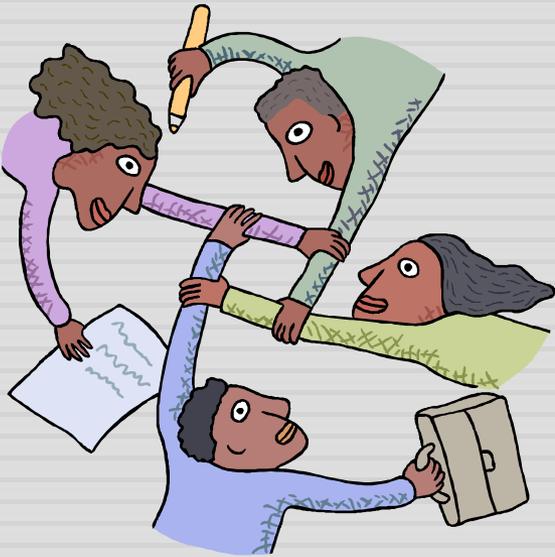
- Refusing medical treatment;
- Refusing to take necessary medication;
- Choosing to abuse alcohol or drugs;
- Living in a dirty or cluttered home;
- Continuing to live with the perpetrator;
- Keeping large numbers of pets.

## Resources

There may be limited funding and resources available to vulnerable adults for direct services, such as:

- Emergency shelter
- Emergency food
- Medications
- Transportation
- Utility payments
- Deep cleaning
- Rent
- Home repair

## Resources



- APS must rely on:

- Medicaid
- Medicare
- Charities
- Other service providers
- Other community resources
- Client's or family's income and assets

- Needed services may only be implemented when the adult has funds to pay for services or once eligibility for services or benefits has been established.

## Legal Advice and Authority

APS may not provide legal advice and may not complete legal documents for an adult, such as a Power of Attorney.



*APS does not have the authority to force a vulnerable adult to revoke or change a legal document.*

APS may not force an adult to press criminal charges or file a civil suit against a perpetrator.

## Differences Between Adult Protection Services And Ombudsman Services

- While Adult Protection investigates allegations of abuse, neglect and exploitation, Ombudsman advocate for the rights of long-term care residents. Ombudsmen are required by Idaho Statute to report allegations of abuse, neglect or exploitation to appropriate entities and would not investigate these situations.

## Differences Between APS and OMB Services

APS	OMB
<p>Idaho has responsibility to protect health and welfare of citizens, but supports a philosophy of client autonomy as long as client retains decisional capacity.</p>	<p>Based on the philosophy of being a watchdog and advocate for rights of individuals and supporting resident's autonomy and expressed preferences.</p>
<p>Focus is on individual client rather than systems change, although APS has the ability to work on systems change.</p>	<p>Mandate is to focus on individual client and on changes in systems to benefit large numbers of individuals.</p>
<p>Restricted to serving vulnerable adults 18 and older.</p>	<p>Serve long-term care facility residents ages 60 years and older, although may respond to younger residents.</p>

## Differences Between APS and OMB Services

APS	OMB
Intervention is triggered by crisis and often relatively short-term.	Relatively long-term. Ombudsman presence in facilities improves quality of life and, in addition, can prevent crises from developing.
Respects and guards client autonomy as long as client retains decisional capacity.	Empowers residents and guards their autonomy.

## Differences Between APS and OMB Services

APS	OMB
Develops service plan and arranges for placement or other services to meet the client's needs.	Advocates for services to be provided; monitors availability and quality of services to residents.
Acts as an agent of consumer protection; at the point that intervention becomes necessary, APS intervenes.	Acts as an agent of consumer protection; at the point that intervention becomes necessary, advocates for intervention and monitors the intervention. (Does not provide actual intervention)

## Differences Between APS and OMB Services

APS	OMB
<p>May petition the courts for guardianship or emergency protective order and sometimes serve as temporary guardian.</p>	<p>It is outside of the ombudsman's mandate to seek guardianship or serve as guardian or temporary custodian; such authority would present a conflict of interest with mandate to serve as advocate.</p>
<p>Established by State legislation and funded with combination of State and Federal funds; therefore only nationally uniform philosophy or definition is that provided by the National Association of Adult Protective Services Administrators.</p>	<p>Established and defined by Federal legislation and receives designated Federal funding; therefore, there is a nationally uniform philosophy and set of program mandates.</p>

Taken from AoA publication: "Coordination Between Long-Term Care Ombudsman and Adult Protective Services Programs and Related Issues" 1993.

- APS protects the health, safety, and welfare of the state's most vulnerable adults by providing community education, finding solutions to complex problems through collaboration; and providing services to meet the vulnerable adult's needs...

...while protecting the vulnerable adult's right to confidentiality, self-determination and least restrictive intervention.

If you have any additional questions about Adult Protection Services' roles, responsibilities, or limitations or about how to make a report to APS please contact your local Area Agency on Aging.

