

Utilizing the National Protocol Standard Forms and Guidance To Assist APS Investigation of Financial Exploitation

Implementation in New York State

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**Office of Children
and Family Services**

APS in New York

State supervised, locally administered social services system

State Bureau of Adult Services provides oversight of APS, including technical assistance, training, policy guidance, compliance monitoring

Has no mandated reporting to APS

APS referrals are made to county or municipal (NYC) APS Units in Social Services Department.

New York Statistics

In 2017, APS received 51,370 total referrals; an 8% increase over 2016, an increase of more than 29% over 2013, and an increase of more than 105% since 1997.

Since 2011, the number of APS referrals for financial exploitation has increased by nearly 42%.

The number of financial exploitation referrals increased in 2017 for both New York City and the rest of the state.

See [The New York State Cost of Financial Exploitation \(2016\)](http://ow.ly/98b1301ifDz) link to study: <http://ow.ly/98b1301ifDz>

New York Statistics (cont'd)

See Under the Radar: New York State Elder Abuse Prevalence Study
link to study: <https://ocfs.ny.gov/main/reports/Under%20the%20Radar%2005%2012%2011%20final%reportpdf.pdf>

Implementation of National Protocol :

Participation on Steering Committee to develop forms & guidance

First circulated package to local APS in July 2015

Following NAPSA webinar of January, 2016 , provided training

on the revised package during APS Legal Aspects Update Webcast

March 16, 2016

Revised materials to reflect New York Law authorizing APS

Investigations

APS Agency Letterhead

OFFICIAL REQUEST FOR CUSTOMER RECORDS

Request pursuant to Gramm-Leach-Bliley Act (GLBA) (15 U.S.C. §6802(e)(8); and 15 U.S.C. §6802(e)(3)(B)) and New York State Adult Protective Services Law Section 473:

_____, an Adult Protective Services Investigator operating under the laws of the State of New York, am conducting an authorized investigation of alleged financial exploitation of a vulnerable adult. I hereby request records from _____ for all accounts relating to _____ for the period of _____ to _____, including but not limited to: account statements for ALL accounts, including checking, savings, money market, certificates of deposit; copies of all checks and withdrawals from the account(s) (front and back) including offsets; copies of all deposits and deposit items; Customer Profile showing all accounts, including opening and/or closing dates. All Power of Attorney documents; signature cards; statements for any loans, lines of credit, or credit cards and copies of advances.

For: _____

Provide these documents on or before _____.

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OFFICIAL REQUEST FOR CUSTOMER RECORDS (cont'd)

uant to Gramm-Leach-Bliley Act (GLBA) (15 U.S.C. §6802(e)(8); and 15 U.S.C. §6802(e)(3)(B)) and New York S
Services Law Section 473:

Signature

Phone

Title

Email

Company

Address

Agency ID (if applicable)

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Gramm-Leach-Bliley Act

15 U.S.C. §6802-Obligations with respect to disclosures of personal information

ral exceptions

Subsections (a) and (b) of this section shall not prohibit the disclosure of nonpublic personal information-

(3)(B) to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;...

(8) to comply with Federal, State, or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by Federal, State, or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law.

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Gramm-Leach-Bliley Act (cont'd)

15 U.S.C. §6802-Obligations with respect to disclosures of personal information

Protective Services (APS) is properly authorized, under the state statute cited below, to carry out civil investigations of vulnerable adult abuse, neglect and financial exploitation.

Ark State Social Services Law
§-B Adult Protective Services
Adult Protective Services
§473. Protective Services

In addition to services provided by social services officials pursuant to other provisions of this chapter, such officials shall provide protective services in accordance with federal and state regulations for or to individuals without regard to income or cause of mental or physical impairments, are unable to manage their own resources, carry out the activities of daily living or protect themselves from physical abuse, sexual abuse, emotional abuse, active, passive or self-neglect, financial exploitation or other hazardous situations without assistance from others and have no one available who is willing and able to care for them responsibly. Such services include:

receiving and investigating reports of seriously impaired individuals who may be in need of protection.

Implementation of National Protocol: (cont'd)

developed reporting form and asked local APS to send me forms periodically

FINANCIAL INSTITUTION RESPONSE TO REQUESTS FOR CUSTOMER INFORMATION (New York Form

Name): _____

Contact Office: _____

1. Name of institution: _____

Branch Location: _____

a. Yes. Requested documents provided after receipt of standard request form.

b. No. Failed to provide requested documents, even after receipt of the follow-up letter. Did the institution explain why it failed to provide requested documents?
If so, please state why: _____

FINANCIAL INSTITUTION RESPONSE TO REQUESTS FOR CUSTOMER INFORMATION (cont'd)

Name of institution: _____

Branch Location: _____

- a. Yes. Requested documents provided after receipt of standard request form.

- b. No. Failed to provide requested documents, even after receipt of the follow-up letter. Did institution explain why it failed to provide requested documents?
If so, please state why: _____

Implementation of National Protocol: (cont'd)

Based on reports submitted by APS, I have in turn sent reports to APSA and to the NYS regulator of state chartered financial institutions, the NYS Department of Financial Services (DFS). More recently I have sent reports to the Federal Consumer Financial Protection Bureau as well.

Partnership with DFS:

- Guidance to financial institutions doing business in New York**
- Trainings of Financial professionals**
- Cross-trainings of DFS and APS staff**
- Assistance in APS cases involving financial institutions, insurance fraud, reverse mortgage fraud.**

Implementation of National Protocol: (cont'd)

We continue to encourage local APS to use the national protocol and request their reports

Progress

An increasing number of local APS units have used the national protocol and have participated in reporting to me on its use. Of the reports received, the great majority of financial institutions receiving the standard request have been providing the requested material to APS!

Implementation of National Protocol: (cont'd)

the May 15 2017 report, of 43 reports, only 3 failures to provide requested documents.

the August 1 , 2017 report, of 59 reports, only 7 failures to provide requested documents.

the most recent report, May 2, 2018, of 53 reports, only eight failures to provide requested documents.

Use of Standard Letters to Request Records

From early implementation , when we had five counties who were early adopters, we now have the majority of APS units using the forms

Implementation of National Protocol: (cont'd)

NYC APS (which comprises five counties in and of itself) has implemented use the standard form.

Reporting On Financial Institution Response to Standard Requirements forms. To date, at least 35 of the 62 APS units have submitted requested report. NYC APS has initiated a process to provide reports in the very near future.

Implementation of National Protocol: (cont'd)

Challenges

Of the financial institutions that have thus far been reported to be unable to provide requested information, they have primarily been large, national or international institutions that are not regulated by the state regulator of state-chartered banks. It is sometimes a challenge to know what federal regulatory agency is responsible for oversight, or whether there are any steps such federal regulators are willing to take to further encourage (or even require?) cooperation.

Implementation of National Protocol: (cont'd)

In the future, we will also be contacting the Office of the Comptroller of the Currency as the OCC regulates all national banks and federal savings associations.

Implementation of National Protocol: (cont'd)

ever, for every time one of these institutions has balked at a request from one APS unit, the very same institution has cooperated on a similar request from another APS unit.

Getting buy-in from APS workers and their management to use the national forms and guidance is critical to success. APS State Administrators, staff and Local Directors need to invest effort in demonstrating the value of the initiative.

Sometimes it takes lots of persistence from APS workers to get an institution to respond. Hopefully it will be easier in the future but we're seeing progress.

Implementation of National Protocol: (cont'd)

We are talking to local APS units about doing local events to provide public recognition and appreciation for those institutions that regularly cooperate with APS requests.