



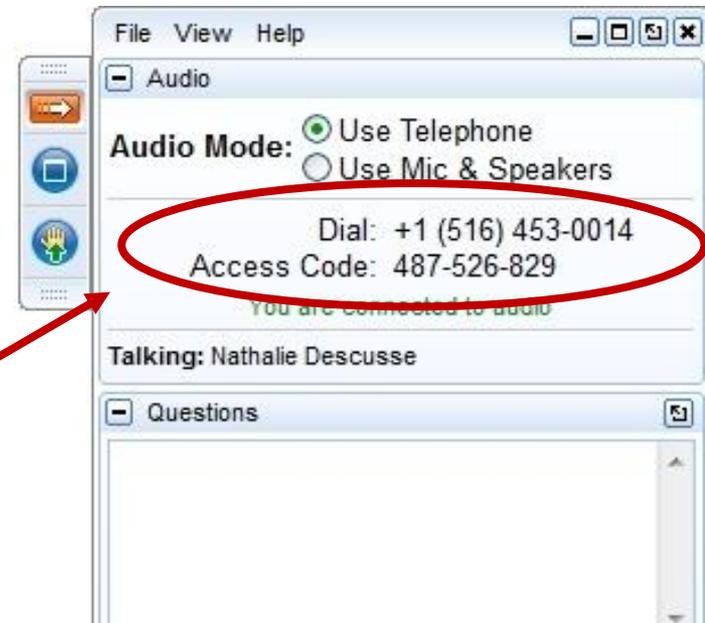
NATIONAL ADULT PROTECTIVE
SERVICES ASSOCIATION

Utilizing a Standard Form to Request Financial Records: Lessons Learned So Far

August 2017

Housekeeping - Connection

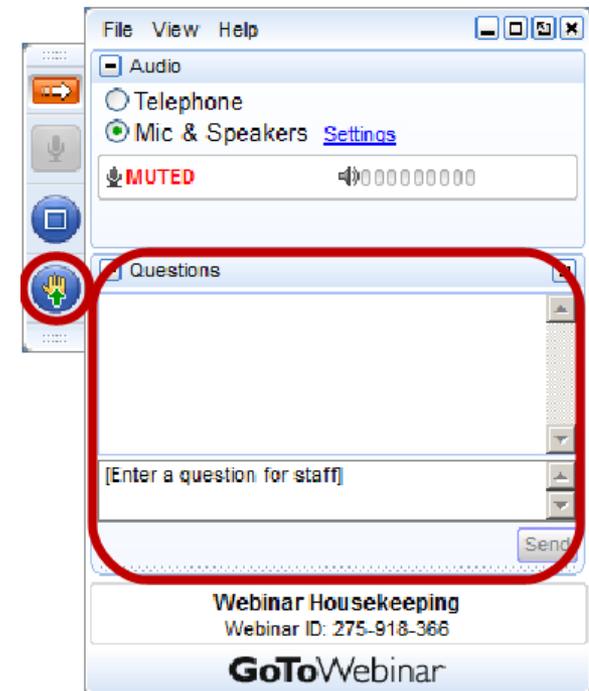
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Housekeeping – Asking Questions

To ask questions:

- Type your questions in the “Questions” box and the moderator will relay them to the speaker.



Today's Speakers



Joe Snyder

Director, Older Adult Protective Services
Philadelphia Corporation for Aging



Kathleen Quinn

Consultant
National Adult Protective Services Association



Paige McCleary

Director, Adult Protective Services Division
Virginia Department for Aging and Rehabilitative Services



Alan Lawitz

Director, Bureau of Adult Services
New York State Office of Children & Family Services



DARS

VIRGINIA DEPARTMENT FOR AGING
AND REHABILITATIVE SERVICES

*Providing resources and services to
improve the independence of older Virginians*



Utilizing a Standard Form to Request Financial Records: Experiences of Virginia APS

August 8, 2017

APS in Virginia

- State supervised, locally administered social service system
- State APS Division staff develop regulations and issue policy/guidance and monitor and provide technical assistance to local departments of social services (LDSS)
- 120 LDSS receive APS reports, conduct investigations, and provide/arrange services

Virginia APS stats

- In state fiscal year (SFY) 2016, APS:
 - received **23,432** total reports
 - substantiated **9,775** reports
 - substantiated **1,158** reports for financial exploitation (FE)
- Preliminary SFY 2017 data indicates:
 - **15%** increase in total reports
 - **9%** increase in substantiated FE

Lay of the Land

- Virginia's LDSS are located in very rural, suburban, and densely populated urban areas
- In SFY 2016 a few LDSS received a total of 3 APS reports while others received more than 1,000
- The volume of FE reports an LDSS receives each year dictates how frequently they may need to request bank records

Improving the Response to Financial Exploitation

- Virginia's Governor, Attorney General, and many state legislators have focused greater attention on financial exploitation of vulnerable adults
- Over the past few years, changes to Virginia laws have strengthened the role of law enforcement and provided more tools for prosecution efforts

“Banks won’t share financial records”

- This has been a common APS worker complaint for years
- Inaccessibility to records hinders worker’s ability to conduct a thorough APS investigation of suspected FE
- In Virginia, financial institutions are not mandated, but rather, permissive reporters
- The state has little ability to make financial institutions comply with a record request

Official Request for Customer Records

- The APS Division adapted the form and included Code of Virginia citations that authorize LDSS workers to conduct APS investigations
- In July 2016, the APS Division posted the form to intranet used by LDSS workers, announced availability via “broadcast,” and included guidance in the manual encouraging use of form

Virginia's version

LDSS LETTERHEAD

Official Request for Customer Records

Pursuant to Gramm-Leach-Bliley Act (GLBA) (15 U.S.C. § 6802(e)(8); and 15 U.S.C. § 6802(e)(3)(B)) and §§ 63.2-1603 and 63.2-1605 of the Code of Virginia:

I, _____, an Adult Protective Services Investigator operating under the laws of the Commonwealth of Virginia, am conducting an authorized investigation of alleged financial exploitation of an older or incapacitated adult.

I hereby request records from: _____ for all accounts relating to: _____ for the period of _____ to _____ to _____ to enter a date, including but not limited to:

- Bank 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 and signature cards
- Statements for any loans, lines of credit, or credit cards and copies of any cash advances
- Other: _____

Please provide these records on or before _____ to enter a date.

_____ Signature	_____ Date
_____ Title	_____ Email
_____ Name of local department	_____ Address

LDSS LETTERHEAD

Gramm-Leach-Bliley Act

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

(e) General 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.

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

§ 63.2-1603. Protection of adults; definitions.

As used in this article:

"Adult" means any person 60 years of age or older, or any person 18 years of age or older who is incapacitated and who resides in the Commonwealth; provided, however, "adult" may include qualifying nonresidents who are temporarily in the Commonwealth and who are in need of temporary or emergency protective services.

"Incapacitated person" means any adult who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out responsible decisions concerning his or her well-being.

§ 63.2-1606. Protective services for adults by local departments.

A. Each local board, to the extent that federal or state matching funds are made available to each locality, shall provide, pursuant to regulations and subject to supervision of the Commissioner for Aging and Rehabilitative Services, adult protective services for adults who are found to be abused, neglected or exploited and who meet one of the following criteria: (i) the adult is 60 years of age or older or (ii) the adult is 18 years of age or older and is incapacitated.

B. Upon receipt of the report pursuant to § 63.2-1606, the local department shall determine the validity of such report and shall initiate an investigation within 24 hours of the time the report is received in the local department. Local departments shall consider valid any report meeting all of the following criteria: (i) the subject of the report is an adult as defined in this article, (ii) the report concerns a specific adult and there is enough information to locate the adult, and (iii) the report describes the circumstances of the alleged abuse, neglect, or exploitation.

Incorporated into worker training

- A two-day financial exploitation classroom course is offered a few times a year in each of the five regions of Virginia
- The form is addressed in the course, though the newly hired curriculum developer is working on course revisions that will bring more attention to its use

Worker Feedback

- APS Division recently collected informal feedback from workers (via email) about the form
- Responses varied though majority of workers felt that the form was beneficial and helped them obtain records from financial institutions

Positive

- “We love it! It’s been very helpful.”
- “We’ve used it once to great success.”
- “It’s been helpful.”
- “It’s been good with smaller, local banks.”
- “Some banks respond well.”
- “Used the form and records were received timely.”
- “Use the form and it’s been working well.”
- “Helpful and easy to fill out. More official looking than just a letter.”
- “Our banks have been responsive, but helpful to make phone/personal contact before sending.”

Mixed/Negative

- “Some banks respond too slowly.”
- “We have a good relationship with community banks, regardless of the form.”
- “It’s not helpful at all.”
- “Form is cumbersome.”

Feedback from Financial Institutions

- The APS Division has not been contacted by any institutions to express either positive or negative comments about the form
- However, a state association representative for certain types of financial entities expressed concern to the Division's Director about the decision to encourage use of the form, though the Division chose to proceed

Moving Forward

- Overall the form has been helpful to Virginia APS workers who conduct financial exploitation investigations
- However, Virginia APS welcomes tips and strategies from other APS programs that have had even greater success, particularly with large corporate financial institutions, in obtaining critical financial records

Contact

Paige L. McCleary, MSW

Director, Adult Protective Services Division

Department for Aging and Rehabilitative
Services

8004 Franklin Farms Drive Henrico, VA 23229

(804) 662-7605

paige.mccleary@dars.virginia.gov

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

Implementation in New York State

Alan Lawitz

Director, Bureau of Adult Services

New York State Office of Children & 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

New York Statistics

- In 2016, APS received 47,528 total referrals; a 5.6% increase over 2015, a nearly 20% increase since 2012 , and an over 90% increase 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 2016 for both New York City (increase of 4.7% from 2015) and the rest of the state(increase of 6.8% from 2015).
- See The New York State Cost of Financial Exploitation (2016) link to study: <http://ow.ly/98b1301ifDz>

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 of March 16, 2016
- Revised materials to reflect New York Law authorizing APS investigations

APS Agency Letterhead

OFFICAL REQUEST FOR CUSTOMER RECORDS

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 Social Services Law Section 473:

I, _____, 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:

- Bank 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 and signature cards
- Statements for any loans, lines of credit, or credit cards and copies of advances
- Other: _____

Please provide these documents on or before _____.

APS Agency Letterhead

OFFICAL REQUEST FOR CUSTOMER RECORDS (cont'd)

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 Social Services Law Section 473:

Signature

Phone

Title

Email

Agency

Address

Other Agency ID (if applicable)

APS Agency Letterhead

Gramm-Leach-Bliley Act

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

(e) General 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 property 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.

APS Agency Letterhead

Gramm-Leach-Bliley Act (cont'd)

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

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

**New York State Social Services Law
Article 9-B Adult Protective Services
Title 1 Protective Services
Section 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 who, because 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 assist 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)

Sent by (name): _____

APS/District Office: _____

Date: _____

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)

2. 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 NAPSA and to the NYS regulator of state chartered financial institutions , the NYS Department of Financial Services (DFS).**
- **Partnership with DFS:**
 - **Guidance to financial institutions doing business in New York**
 - **Trainings of Financial professionals**
 - **Cross-trainings of DFs and APS staff**

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)

- **In the May 15 2017 report, of 43 reports, only 3 failures to provide requested documents.**
- **In the August 1 , 2017 report, of 59 reports, only 7 failures to provide requested documents.**
- **From early implementation , when we had five counties who were early adopters, we have grown to at least 30 counties using the form (more than half)**
- **NYC APS (which comprises five counties in and of itself) is gearing up to use the standard form.**

Implementation of National Protocol: (cont'd)

Challenges

- **Of the financial institutions that have thus far been reported to fail to provide requested information , they have largely been large, national or international institutions that are not regulated by the state regulator of state-chartered banks. It is 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)

However, for every time one of these institutions has balked at a request from one APS unit, the very same institution has cooperated with 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.**

BANK CONTACTS

Wells Fargo Bank

Elder Financial Abuse Unit

P.O. Box 3908

Portland, OR 97208

Attn: Elder Financial Abuse Unit

Fax requests to: 866-617-5301

*if there is a need to re-request documents, call 503-721-5370 and ask for who is working records and explain the situation

Wells Fargo Mortgage contact: Cassandra Stewart 1-800-853-8516 x1335621648

PNC Bank

Subpoena Processing

4100 west 150th St

B7-YB17-O1-C

Cleveland Ohio 44135

Laurie Kane 215-749-5283

Fax 888-678-1472 PH 855 272 7229

Citizens Bank

One Citizens Drive

Attn: Custodian of Records - Grace Loras

Mailstop: ROP210

Riverside, RI 02915

Updates: 888-799-0482

TD North Bank

Barbara Morgan

NJ5-007-128

Security/Loss Prevention Department

900 Atrium Way

Mt. Laurel, NJ 08054

Email: GSI.Subpoenas@td.com

OR use this email with signed authorization form. gsi.subpoenas@td.com

Bank of America

Legal Order Processing

P.O. Box 15047

Wilmington, DE 19850

Fax# 212-548-8510

Phone # 213-580-0702

Document Review – 1-888-756-3333

Document Processing/Document Fulfillment – 855-808-4817

You can serve legal process directed to Bank of America, N.A. on their registered agent. C.T. Corporation at the following address

C T Corporation System

116 Pine Street, Suite 320

Harrisburg, PA 17101

BNY-Mellon Corporation

1 Wall Street

11th Floor – Legal Processing

New York, NY 10286

Attn: Luz Riveria

Fax # 212-635-1071

Santander Bank

P.O. Box 12646

Reading, PA 19612

Attn: Court Order Processing

Jen Borst 484-248-1212

FAX # 484-248-1121

Vanguard Mutual Funds

Loss Prevention/Security Department

P.O. Box 1110

Valley Forge, PA 19482-1110

JPMorgan Chase Bank, N.A.

Cathy Johnson

National Subpoena Processing

7610 West Washington Street

Indianapolis, IN 46231

317-757-7384 – Cathy's number

317-757-7422 – Customer service number

317-757-7421 – Fax # to send requests

Ally Bank

Linda Mill, Director of Operations

1100 Virginia Drive, MC: 190-FTW-i20

Fort Washington, PA 19034

215-734-5966 – phone

215-734-8835 – fax

LegalDocumentProcessing@ally.com

Fidelity Investments

Attn: Brian Hemsath Ref W774529-15Feb17

100 Crosby – KP2D

Covington, KY 41015

Fax 855-828-8424

Increasing the response from Financial Institutions

- Develop an “expert”
- Find change agent
- Start a taskforce or MDT

Increasing the response from Financial Institutions

- How to work with a new institution
- Keep contact list and keep cultivating
- Be a partner-Share information



NATIONAL ADULT PROTECTIVE
SERVICES ASSOCIATION

Thank You!

Please complete your evaluation