

NAPSA

Adult Protective Services

Abuse Registry

National Report

March 2018

Acknowledgments

The concept of Adult Protective Service (“APS”) Abuse Registries has long been discussed and debated among APS staff, advocates, and other colleagues throughout the nation. Recognizing the varied approaches by individual states on the concept of an APS abuse registry, Robert Anderson, President of the National Adult Protective Services Association (“NAPSA”) decided there was national benefit to a comprehensive and methodical review of an APS abuse registry as a potential tool to protect elders and persons with disabilities. Robert Anderson spearheaded an APS Abuse Registry Ad Hoc Committee comprised of volunteer NAPSA members throughout the country to examine the who, what, where, when, how and why of APS abuse registries.

Thanks to the many volunteers under the staunch support of NAPSA’s former Assistant Director, Andy Capehart, we are proud to share with you this *Adult Protective Services Abuse Registry National Report* (herein “Report”). Although there are still unanswered questions, by combining the knowledge and experience of many, we hope that this Report provides a greater understanding of the efficacy of an APS abuse registry.

The Report was two years in the making – a very arduous venture to say the least. From the onset, we knew it would be a significant undertaking especially given there were no designated funds to support the project – instead relying on a group of committed NAPSA members who came together under the support and guidance of NAPSA.

The Committee recognized early on a key missing component of our make-up was an expert researcher. Although all members were well versed in APS, some with abuse registry expertise, we clearly had a gaping hole to fill. Texas, in the style they are known for, came through big. Then Assistant Commissioner of Texas APS, Beth Engelking, graciously offered her Research Specialist, Catherine Bingle, to join our team. Catherine Bingle’s research expertise, coupled with her unwavering dedication to this project, provided critical insight on how to structure our efforts, surveys and definitions. With Catherine at ground zero, this complicated project got the launch it needed to ensure success.

To gather the necessary information to answer the who, what, where, when, how and why, the Committee conducted two digital surveys and one telephone interview with as many states that would participate. The Committee is most appreciative to the states that completed these surveys and participated in a comprehensive telephone interview. Without this voluntary participation, there would be no answers to our questions; no Report to inform. We recognized that completing a survey or two and partaking in a telephone interview was not high on anyone’s priority list, given the other duties of APS staff. To keep the surveys at the forefront, Steve Fisher, APS State Director for the state of Kentucky, undertook the difficult and sensitive role of following-up with each state to request and encourage participation of the surveys and interview. As a result of Steve’s resolve, most states ultimately participated at some level in the process resulting in a wealth of information being collected throughout the country.

The Committee recognized that there were limits in what we could expect states to provide in a digital survey, and we needed comprehensive answers to complex APS registry issues. To address this challenge, the Committee developed a detailed telephone interview questionnaire. To ensure continuity, NAPSA’s former Assistant Director Andy Capehart conducted all of the telephone interviews with each interview often taking up to two hours to complete. During each

telephone interview, Andy was joined by a member of the Committee volunteering to take comprehensive notes of the call. This endeavor was no easy task for Andy or the volunteer scribes given the coordination, time commitment, volume of work, attention to detail and follow-up required. Many thanks to Andy and to Committee members Catherine Bingle (Texas), Marta Fontaine (Missouri), Mariah Freark (Massachusetts), Lynn Koontz (New Hampshire), Catherine Stack (Iowa), Mandy Weirich (West Virginia) and Sharon Zanti (Colorado) for taking comprehensive notes, which proved critical in drafting the Report.

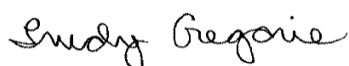
Once collected, the vast volume of data and material needed to be organized and analyzed. To make it manageable, the information was divided up into sections and the Committee members were paired in teams of two or three to begin making sense of and reporting out on its findings. Catherine Bingle (Texas), Andrew Capehart (NAPSA), Linda Chun (Hawaii), Lori Delagrammatikas (California), Steve Fisher (Kentucky), Marta Fontaine (Missouri), Mariah Freark (Massachusetts), Lynn Koontz (New Hampshire), Paige McCleary (Virginia), Catherine Stack (Iowa), Mandy Weirich (West Virginia) and Sharon Zanti (Colorado) all took on the tedious task of organizing the data, drafting the sections of the Report and/or thoroughly reviewing and editing the report.

Every Committee member significantly contributed to the project through participation in regular meetings, sharing their APS and/or registry expertise, drafting and/or editing survey questions, seeking out states' participation, taking copious notes of telephone interviews, partaking in webinars and/or conference workshops and writing and/or amending the report. Throughout the entire project, Committee members were enthusiastic, motivated and dedicated to completing the Report. We are truly proud and most grateful for the efforts of this outstanding team.

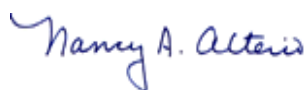
Although every Committee member stood out at some point throughout the project, there is one individual who stood out throughout the entire project – Mariah Freark, Assistant General Counsel at the Massachusetts Disabled Persons Protection Commission. Mariah kept us together, kept us moving, and kept us focused from start to finish. Mariah was often at the forefront, sending us our “to do list” or friendly reminders of our timelines and next steps. But she was also, always behind the scenes, double checking our work, researching unanswered questions, tracking down notes, drafting incomplete sections of the Report, analyzing feedback, and jumping in on any task or deadline that needed assistance. Mariah’s consistent and steadfast commitment brought this project to fruition.

In closing, we are profoundly grateful for all of the work of the Committee members who often gave up nights and weekends to ensure deadlines were met. This level of commitment is deeply appreciated but not surprising given the field of work to which you have all dedicated yourselves. Thank you all for your time, energy and expertise throughout this most significant endeavor. We are very grateful to be supported by such an incredible group of colleagues.

Sincerely yours,



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About NAPSA

The National Adult Protective Services Association (NAPSA) is a national nonprofit 501(c)(3) organization with over 900 members in all 50 states, including the District of Columbia, the U.S. Virgin Islands, and Guam. It was formed in 1989 to provide state and local Adult Protective Services program administrators and staff with a forum for sharing information, solving problems, and improving the quality of services for victims of elder and vulnerable adult abuse. NAPSA is governed by a volunteer Board of Directors.

The mission of NAPSA is to improve the quality and availability of protective services for adults with disabilities and older persons who are abused, neglected, or exploited and are unable to protect their own interests. NAPSA is the national voice of APS programs, professionals and clients, and advocates on their behalf with national policy makers.

For over a decade, NAPSA was a partner in the Administration on Aging-funded National Center on Elder Abuse. NAPSA was a founding member of the Elder Justice Coalition and remains on its leadership committee. NAPSA also partners with a wide range of other national and state organizations. NAPSA hosts the only national annual conference on elder abuse, abuse of adults with disabilities, and APS.

For more information, go to www.napsa-now.org.

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Executive Summary

This report presents the findings of a multi-state study, undertaken from January 2016 to February 2018, to identify key features of state adult protective services (“APS”) abuse registries in the United States. The project was completed by a group of National Adult Protective Services Association (“NAPSA”) member volunteers under the auspices of an ad hoc committee of the NAPSA Regional Representatives Advisory Board. The information in this report represents a snapshot of selected information on 21 state APS abuse registries at the time of formal data collection and analysis; i.e., from January through September of 2017.

The project focused on state registries that fit the definition: “a system for maintaining the identity of individuals who are found, only as a result of an APS investigation, to have abused, neglected or exploited seniors or adults (18 and older) with disabilities living in the community or in a facility. The purpose of such a registry is to make this information available to individuals, agencies or employers who are authorized to receive such information.” Information about registries meeting this definition was collected via two online surveys and subsequent telephone interviews with representatives of states, as well as a review of statutory and regulatory materials.

The Committee identified 26 states with APS abuse registries meeting the Committee’s definition. Of those 26 states, 21 contributed information to this project. Information was collected and analyzed on numerous topics dealing with the origin and scope of registries, key organizational characteristics and processes, resources used to operate registries, access to and uses of registry information, and perspectives on lessons learned by states in operating registries. Themes arising from the information collected in this study include but are not limited to:

- Reducing access of abusers to vulnerable adults and improving hiring practices of providers through the implementation of APS abuse registries;
- Significant diversity in operations and uses of APS abuse registries;
- Common components of APS abuse registries include perpetrator notification and the existence of due process provisions;
- Inadequate resources to operate APS abuse registries;
- Length of time and administrative challenges of due process and information systems;
- Tension between APS abuse registry roles in protecting vulnerable adults and punishing abusers; and
- Dissatisfaction with the scope of offenders included in the APS abuse registry.

The report presents several recommendations for consideration by NAPSA and states that operate, or are considering operating, APS abuse registries. The recommendations include the following feedback from state respondents:

- APS abuse registries must be adequately funded in accordance with the mission, structure, and goals of the registry;

- APS abuse registries must provide for dedicated staff; and
- States with APS abuse registries should identify a way to measure the effectiveness and efficiency of having a registry.

In addition, NAPSA is encouraged to create a networking group of states that have APS abuse registries. Several areas for further research were identified, including additional study on the effectiveness and efficiency of APS abuse registries, alternative due process approaches, employment restrictions, and the scope of abusers included on APS abuse registries.

For any questions about this report, please contact NAPSA at info@napsa-now.org.

Section I: Introduction

A. Background and Project History

This project was borne out of frequent inquiries received by NAPSA in recent years from state APS administrators as well as various media sources seeking information about APS abuse registries. Recognizing the interest in this topic, NAPSA's Regional Representatives Advisory Board determined that there was a need to examine APS abuse registries, and therefore, in January 2016, established an APS Abuse Registry Ad Hoc Committee ("the Committee"). The Committee's first meeting was held in February 2016.

The Committee identified that an applied research project was needed to collect information on APS abuse registries around the country. The Committee then developed a research plan to assist in determining what information to gather, and to execute the research plan.

B. What is an APS Abuse Registry?

As an initial step in defining the scope of the research, the Committee crafted a definition of "APS abuse registry." The team identified an APS abuse registry as "a system for maintaining the identity of individuals who are found, only as a result of an APS investigation, to have abused, neglected or exploited seniors or adults (18 and older) with disabilities living in the community or in a facility. The purpose of such a registry is to make this information available to individuals, agencies or employers who are authorized to receive such information." This definition was adapted from one provided in a previous study on state registries dating from 1999.¹

In defining an APS abuse registry in this fashion, the Committee sought to narrow the scope of registry-like structures examined to those in which placement of a person on the registry specifically results from an APS investigation. Systems that place an individual on a list of perpetrators as the result of non-APS processes such as criminal background check systems, the List of Excluded Individuals/Entities ("LEIE") maintained by the federal Office of the Inspector General², or child abuse registries were intentionally excluded.³

¹ Duke, Joy. Summary of Findings of a National Survey on Adult Abuse Central Registries, *Victimization of the Elderly and Disabled*, January/February 1999. Rpt. in *Abuse and Neglect of Vulnerable Adult Populations*. Ed. Otto, Joanne Marlatt, 2005.

² The LEIE provides information to the health care industry, patients and the public regarding individuals and entities currently excluded from participation in Medicare, Medicaid and all other federal health care programs. Individuals and entities who have been reinstated are removed from the LEIE.

³ There were two registries that did not meet the definition exactly, but which had enough similarities with APS abuse registries to merit inclusion in the Report. Delaware has state-level employment restrictions for perpetrators listed on the federal Medicaid Excluded Provider list. Although the perpetrators do not end up in this system as the result of an APS investigation, the results of Delaware's state-level restrictions mimic the results of other APS registries across the nation. Therefore, information is included about Delaware in portions of this report that summarize access to registry information and that examine the effects of being placed on an adult abuse registry. Ohio also has a unique system. Its registry, which is maintained by the state's Department of Developmental Disabilities, not APS, specifically protects victims with intellectual or developmental disabilities. While perpetrators may be placed on the registry as a result of an APS investigation, there are also other administrative or criminal investigations that result in a perpetrator's placement on the registry.

C. Methodology

The methodology for the project took an iterative approach involving two online surveys, followed by a telephone interview of key respondents among participating states, as well as a review of statutory and regulatory sources. First, the Committee designed a short online survey⁴ to identify states with APS abuse registries, as defined by the Committee. States without a current APS abuse registry were asked whether they ever had such a registry in the past. State respondents who indicated that their state currently operates an APS abuse registry were asked for information about the types of settings investigated by APS that were covered by their state's APS abuse registry, and were requested to provide contact information for a follow-up survey.

After compiling and reviewing the results of this initial survey, the Committee developed a second online survey⁵ intended for state respondents who identified themselves as having currently-operating APS abuse registries. This survey asked for additional details about each state's APS abuse registry, including information on the:

- year of establishment;
- current number of names on the registry;
- statutory and/or regulatory authority;
- operating agency and oversight;
- resources including funding, staff and information systems;
- duration of registry listings;
- matters of notification and access;
- required registry checks; and
- coordination and information sharing with other states.

The Committee then sought a telephone interview⁶ with APS (or other relevant agency) staff in states with APS abuse registries to further explore the above and additional topics with details that would have been difficult to address in an online survey. In addition to the above topics, the interview addressed:

- the historical origin of the registry;
- how operations are coordinated among agencies;
- the scope of abuse covered including types of abuse, victims, and perpetrators;
- processes for adding names, appeal, and removal of names;
- processes for notification and access to the registry;

⁴ A copy of this survey is attached as Appendix 1.

⁵ A copy of this survey is attached as Appendix 2.

⁶ A copy of this interview is attached as Appendix 3.

- employment prohibitions and other registry uses; and
- perceived benefits, challenges and operational issues.

These interviews were conducted by a sole NAPSA staff member; the majority of the interviews also included a dedicated note-taker from the Committee.

The Committee then drafted the final report. Committee members divided the proposed draft into sections and, in teams of two or three, analyzed state statutes and regulations, survey responses, interview responses, and other relevant materials submitted by state respondents over the course of the project.

D. Challenges

The Committee encountered certain obstacles in executing this project. It is important to note that there is no federal oversight or direct federal funding for APS. Therefore, states have created APS response systems governed by varied definitions of abuse, types of victims, settings for investigations, and whether services are provided, if needed, post-investigation. Moreover, there is significant variety in the administration of APS systems, including a distinction between state-based and county-based systems. This backdrop of non-uniformity presented a challenge to information collection.

Additionally, despite the Committee's usage of what was thought to be a clear definition of an APS abuse registry, there was some difficulty communicating with state respondents about the type of system of interest in the research. Several states identified as potential respondents had a system that was termed a "registry" but it did not meet the key parameters of the definition. For example, a criminal background check system or a list of people who had a certain professional certification did not qualify as APS abuse registries. Other state respondents reported that they did not have an APS abuse registry, but the Committee discovered later that such a system did exist in those states.

Other challenges were encountered in gathering information. All contact began with the state's APS administrator, but in some cases, the APS administrator was not the most knowledgeable person about the APS abuse registry. Frequently, information had to be sought from other staff within APS, or even other departments within state government. It sometimes took longer than anticipated to locate the individuals with the information sought by the project, and Committee members devoted substantial time and energy seeking information from other APS or other state government departmental staff to find the most pertinent information.

Moreover, gathering complete information on each state's APS abuse registry was difficult. Relevant statutes and regulations were either provided by APS administrators or found via web searches. Insights from surveys and interviews supplemented the analyses of statutes and regulations. However, it is possible that the Committee missed relevant information during the course of the project, or misinterpreted certain aspects. All efforts were made to ensure that the generalizations provided in this report are as accurate as possible, given the challenges of the situation.

Finally, the Committee notes that the information in this report is meant to represent a snapshot of the way states' APS abuse registry systems appeared at the time the data was gathered and analyzed. Formal data collection began in January 2017 and concluded in September 2017; however, there may have been changes in statutes, regulations, or operating procedures since this time.

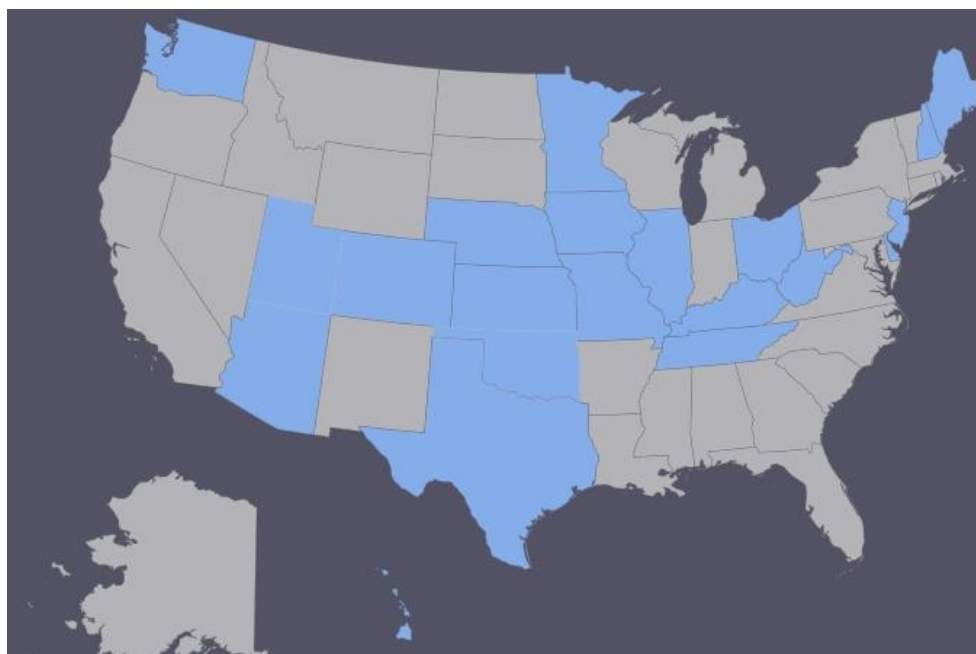
Section II: Project Overview

Given the wide variety of approaches utilized by states in creating, enacting, and implementing APS abuse registries, making broad generalizations regarding the frameworks of registries nationwide is difficult. The states with APS abuse registry systems all have a different version of statutory mandates to create these registry systems. Moreover, statutes vary in depth, breadth, and specificity regarding issues such as registry maintenance, access, due process, and dissemination of information. In some cases, the authority for the APS abuse registry is found in the section of the state's code that governs APS; in others, APS abuse registry statutes are included in the section of the state code pertaining to employees of human services agencies or licensing of direct care professionals.

A. Participating States

The Committee identified 26 states with APS abuse registries meeting the Committee's definition⁷. Of those 26 states, 21 contributed information to this project: Arizona, Colorado, Delaware, Hawaii, Illinois, Iowa, Kansas, Kentucky, Maine, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, Ohio, Oklahoma, Tennessee, Texas, Utah, Washington state, and West Virginia.⁸ Information from each of these states was collected and reviewed extensively; however, complete information was not available for each state.

Figure I: Participating States with APS Abuse Registries



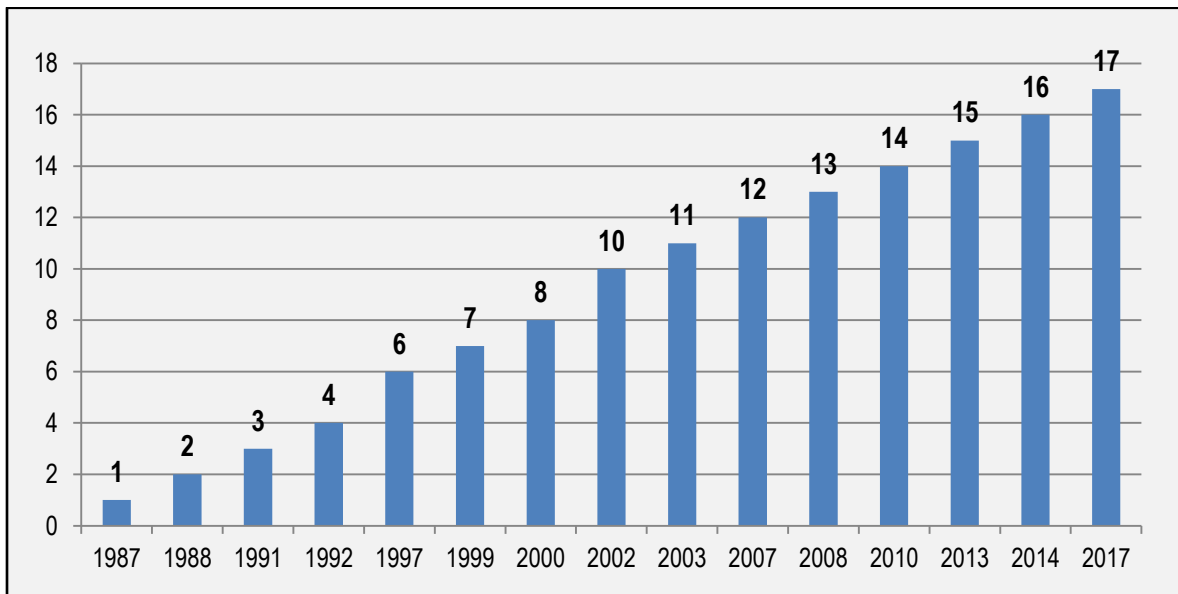
⁷ During the course of the project, the research team discovered one state – Florida – that had an adult abuse registry which was discontinued in 2000. Due to the passage of time, various data comparable to that sought from other states was not readily available from Florida for the analysis of this report. However, information gathered on reasons for the discontinuation of the Florida registry is included in discussions in the Lessons Learned section of this report. The Committee is not aware of any other discontinued adult abuse registries.

⁸ Arkansas, Connecticut, North Carolina, Vermont, and Wyoming reported that they have, or were identified by the Committee as having, APS abuse registries; however, they did not participate in the project.

B. Registry Age

A total of 17 state respondents reported the year their APS abuse registry began⁹, ranging from the oldest, Tennessee, established in 1987, to the newest, Colorado, set to take effect in January 2019. A few state respondents noted a lag time between passing legislation for the registry and the registry becoming operational – New Jersey and Kentucky passed legislation in 2010 and 2014, respectively, but did not have names listed on their registries until the following calendar years. Another state respondent said that their state passed registry legislation in the past few years, but the registry has not yet started accepting names.

Figure II: Accumulated Number of APS Abuse Registries Created by Year



C. Registry Size

Of 15 states¹⁰ responding, the number of perpetrators¹⁰ currently listed on state APS abuse registries ranged from 0 to 15,249 names per registry. Refer to Figure III. Among these 15 states, the average number of names listed was 2,754 and the median number of names listed was 947. It should be noted that these numbers may be impacted by the fact that some states list names on the registry indefinitely, as described in the Duration of Placement section in this report.

Seven state respondents reported a trend of increasing registry size over the years of operation. Reasons listed for an increasing number of names over time included:

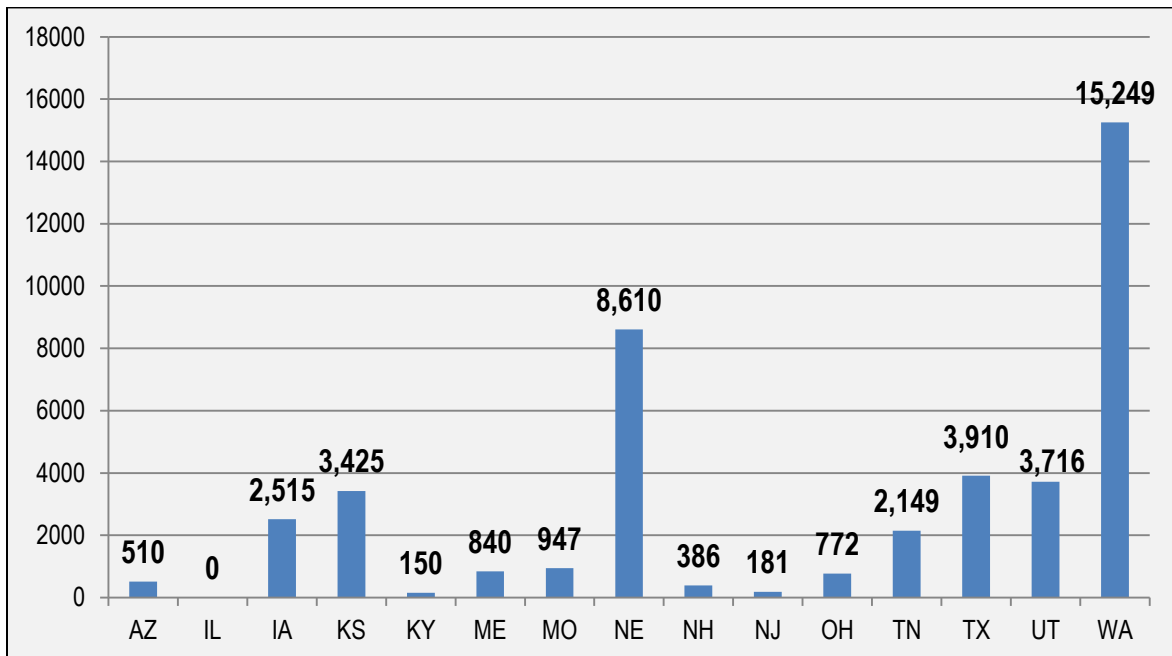
⁹ Arizona – 2007, Colorado – 2019, Hawaii – 2002, Illinois – 2013, Iowa – 1991, Kansas – 1997, Kentucky – 2014, Maine – 2002, Missouri – 1992, Nebraska – 1988, New Hampshire – 2008, New Jersey – 2010, Ohio – 2000, Tennessee – 1987, Texas – 1999, Utah – 1997, Washington – 2003.

¹⁰ Arizona – 510, Illinois – 0, Iowa – 2,515, Kansas – 3,425, Kentucky – 150, Maine – 840, Missouri – 947, Nebraska – 8,610, New Hampshire – 386, New Jersey – 181, Ohio – 772, Tennessee – 2,149, Texas – 1,855, Utah – 3,716, Washington – 15,249.

- streamlining processes;
- increased APS volume;
- changes in APS;
- population increases; and
- accumulation of perpetrator names faster than the rate of removal of names from the registry.

One state respondent reported that the number of names on the registry increased consistently from the registry’s inception in 2008 until 2015, but the number of names added declined in 2015 and 2016. Another state respondent reported that recent staff turnover may have led to a decreasing number of names on the registry, as newer staff may not readily identify cases that should be sent to the registry.

Figure III: Number of Names on Participating State APS Abuse Registries (N=15)



Section III: Resources

A. Funding

Few state respondents were able to provide a specific dollar amount for funding dedicated to the APS abuse registry. Of the 18 state respondents included in this section, four did not respond to this question on the electronic survey¹¹; two stated that the funding for the APS abuse registry was not a separate line item, but was instead included within the general funding allocated by the state legislature to APS¹²; one state respondent said they did not know the funding amount¹³; and 11 were able to provide a substantive response. Of the 11 substantive responses, eight state respondents¹⁴ reported that the APS abuse registry in their state had no separate annual operating budget. Utah reported that it receives \$2,000 per year for its registry, New Jersey reported a registry operating budget of \$187,037 for salaries, and Colorado said that the budget for the first year of its registry's operation will be \$428,000 and for the second year will be \$625,000.

Many state respondents, even those with no earmarked funds for the APS abuse registry, responded to a survey question about the funding source of their registry by stating that they had a funding source of state general funds, and were thus likely referring to the funding stream for APS as a whole. Three state respondents¹⁵ also indicated receiving federal funds. Of the three states that reported receiving funds specifically for the registry, Utah reported its funding comes from state general funds; New Jersey reported its funding comes from 10% federal funds and 90% state general funds; and Colorado reported that its initial funding comes from the state general funds, but the registry is expected to be self-funded as of July 2019 by the fees employers pay to the state to run registry checks on employees. There do not appear to be any other self-funded APS abuse registries.

B. Number of Full-Time Employees Dedicated to Registry Operations

Seventeen state respondents provided a response to how many full-time employees (“FTEs”) were dedicated solely, or projected to be dedicated, to APS abuse registry operations. Responses ranged from zero dedicated staff in the majority of states¹⁶ to eight dedicated staff, reported by Nebraska.

¹¹ Iowa, Maine, Minnesota, Nebraska.

¹² Kentucky, Ohio.

¹³ Arizona.

¹⁴ Hawaii, Illinois, Kansas, New Jersey, Oklahoma, Tennessee, Texas, Washington.

¹⁵ Iowa, New Hampshire, Tennessee.

¹⁶ Hawaii, Illinois (current), Missouri (as reported at time of data collection), Oklahoma, Tennessee, Utah, Washington.

Figure IV: Number of FTEs Dedicated to APS Abuse Registry Operations

State	FTEs
• Arizona	1
• Colorado (projected)	7
• Illinois (projected)	2
• Iowa (current)	2
• Iowa (possible maximum number if funded)	6
• Kansas	.5
• Kentucky	6
• Missouri ¹⁷	10
• Nebraska	8
• New Jersey	1.5
• Ohio ¹⁸	4
• Texas	2

In addition to dedicated FTEs, numerous state respondents reported that other staff across various state agencies and departments, as well as non-registry staff within APS, contribute to APS abuse registry operations. Common examples of such additional labor included:

- legal staff (lawyers, paralegals, and administrative support) from within the APS agency, the umbrella department overseeing the APS agency (such as the state Department of Human Services, Department of Aging, or Department of Children and Families), and/or the state Attorney General’s office, to provide legal representation at, or assistance with, due process administrative and judicial hearings;
- state agency providing administrative law judges, to conduct hearings; and
- IT support staff for database/website maintenance, support, and troubleshooting.

Some state respondents noted that APS investigators and supervisors have found their workloads impacted by APS abuse registries due to additional work time required to:

- prepare and submit perpetrator information to the registry;
- prepare and justify case substantiations;
- notify perpetrators of registry placement; and

¹⁷ Although at the time of data collection Missouri had zero FTEs dedicated to registry operations, Missouri reports that as of February 2018, there are 10 FTEs dedicated to registry operations.

¹⁸ Ohio notes that it has zero FTEs dedicated solely to registry operations, but estimates that the registry-related work being done amounts to four FTEs. Ohio further notes that its registry staff are not APS employees, but rather, work for the state’s Department of Developmental Disabilities.

- participate at administrative and judicial hearings, and/or assist legal representatives in preparing for hearings.

Additionally, in the case of Kansas, each APS region does its own data entry of perpetrator information into the statewide registry.

C. Information Systems

Of the 19 states responding to questions about the information system used for their APS abuse registry, 10 state respondents reported that their registry was in a specialized database built to house or operate the registry. Three state respondents reported using a database created in Microsoft Access or similar software, while two other state respondents said that they use a spreadsheet created in Microsoft Excel or similar software. Other unique state responses identified that their registry information system is the current APS case management system¹⁹; a computerized information system²⁰; an internet-based platform²¹; or a tracking incidents database²².

Figure V: APS Abuse Registry Information Systems

Type of System	States
Specialized database built to house/operate registry	Arizona, Illinois, Iowa, Minnesota, Nebraska, New Hampshire, Ohio, Tennessee, Texas, Utah
Access database/similar	Kansas, New Jersey, Oklahoma
Excel spreadsheet/similar	Maine, Missouri
Other	Colorado, Hawaii, Kentucky, Utah

D. Agencies Involved and Coordination

In explaining whether other agencies were involved in, or coordinated with, operating and overseeing the APS abuse registry, most state respondents listed one department, agency, or office with primary responsibility for maintaining the registry, such as APS, Aging and/or Disability Services, Children and Family Services, Program Accountability, or the state’s Department of Human Services more broadly. However, a number of state respondents indicated that registry administration involves informal coordination or communication with other agencies. For example, three state respondents²³ reported a standing relationship with professional licensing boards, often to proactively notify those boards of licensed professionals whose names become listed on the registry. Most state respondents reported that they notify the agency that licenses or certifies the organization employing the

¹⁹ Colorado.
²⁰ Hawaii.
²¹ Kentucky.
²² Utah.
²³ Hawaii, Kentucky, New Hampshire.

perpetrator. Four state respondents²⁴ said that they work with or provide perpetrator information to state Medicaid agencies, primarily to assist in the Medicaid fraud investigation process. Other agencies or offices listed as having involvement with the APS abuse registry included:

- Attorneys General;
- Inspectors General;
- legal services;
- disability services;
- adult and/or child protective services;
- children and family services;
- public safety; and
- Chief Information Officer.

Multiple state respondents²⁵ stated that there were at least two different government agencies investigating adult abuse. For example, as is common in APS programs across the states²⁶, one agency may be charged with investigating abuse in the community, while another is charged with investigating abuse in long-term care settings. Finally, the research confirmed that there are no inter-state collaborations or information-sharing mechanisms in place to share APS abuse registry information across state lines.

A few state APS abuse registries are housed with additional types of offender registries (e.g., sex offender, child abuse, licensing sanctions), which tends to require more coordination and communication across departments, agencies or offices. For example, Missouri has an Employee Disqualification List, administered by the Department of Health and Senior Services, as well as an Employee Disqualification Registry, administered by the Department of Mental Health. However, each of these lists feeds into a central registry, which ultimately reduces confusion among employers checking prospective employees against multiple lists and registries.

Some state respondents noted that technological automation can reduce the effort involved in coordination necessary among different registries. In Iowa, for example, staff from the Office of the Chief Information Officer control central access to a single contact repository, which has offender information flowing into it from multiple departments. Staff from each department manage and control access to their particular section of the registry. Occasionally, departments involved with the registry will meet to coordinate, but the high degree of automation between systems reduces the amount of these in-person meetings.

²⁴ Hawaii, Illinois, Missouri, Ohio.

²⁵ 9/ 19 – Delaware, Illinois, Iowa, Kansas, Maine, Missouri, Ohio, Tennessee, Texas.

²⁶ *Adult Protective Services in 2012: Increasingly Vulnerable*. National Adult Protective Services Resource Center and National Association of States United for Aging and Disabilities, 2012.

Section IV: Scope of Registry

While most states surveyed have statutory authority to investigate incidents of abuse of adults 18 and older, not all types of abuse result in placement on the APS abuse registry. Victim type and perpetrator type often determine placement. Additionally, a state APS agency's mandate to investigate vulnerable adult abuse is typically much broader than the criteria for placing perpetrators on the state's APS abuse registry. In some states, definitions of abuse, alleged victim, and/or alleged perpetrator used in placing perpetrators on the registry differ from those used during the investigation process.

A. Types of Abuse

The scope of abuse covered by APS abuse registries follows from, but is not necessarily all-inclusive of, the scope of abuse investigated by APS agencies. APS authorities generally deal with all types of abuse, neglect and exploitation, whether physical, sexual, emotional, or financial in nature. However, not all types of confirmed abuse are necessarily eligible for APS abuse registries. For example, in Texas, "reportable conduct" for purposes of the APS abuse registry includes only validated allegations related to:

- verbal, psychological or physical neglect *if* the action(s)/inaction(s) causes harm or has the potential to do so;
- physical abuse *if* it results or could result in death or certain types of injury;
- all sexual abuse; and
- financial exploitation *if* the value is \$25 or more.

However, in Texas, APS may still substantiate cases that fall outside these parameters and thus constitute abuse, neglect or exploitation, but do not result in the perpetrator's placement on the registry.

In other cases, the level of severity of abuse is a criterion for placement on the registry. In Iowa, investigators distinguish between founded findings and findings which are deemed "confirmed but not placed" on the APS abuse registry based on the nature of the abuse. These latter findings are for abuse that has been determined to be "minor, isolated, and unlikely to reoccur." While the "confirmed but not placed" findings do not result in registry placement for the perpetrator for a single confirmed finding, additional abuse allegations within five years may merit escalation and possibly registry placement.

Maine distinguishes between "Level I" substantiations and "Level II" substantiations, which pertain to severity of abuse. Perpetrators substantiated against for Level I abuse are placed on the registry. Perpetrators substantiated against for Level II abuse are deemed to have committed "minor conduct," which represents acts or omissions that meet the legal definition of abuse or neglect in Maine, but do not rise to the level of sexual abuse, exploitation, or intentional, knowing, or reckless conduct. An individual with two or more Level II substantiations in a nine-month period may then be escalated to Level I and placed on the registry.

Self-neglect is excluded from state APS abuse registries, with the exception of Utah, which reports that it lists persons substantiated against for self-neglect on its APS abuse registry.

Some states, including Iowa, New Jersey, and Ohio, have provisions that permit either APS (or the other agency which administers the registry) to exercise discretion in deciding whether a perpetrator is placed on the registry at all. Several of these provisions involve an analysis of the severity of the underlying offense.

B. Victim Type

Most states require a vulnerability component for an adult to be considered an alleged victim of adult abuse. Seven of the states surveyed²⁷ also include a specific definition for “older adult” victims, in addition to serving victims 18 and over who are vulnerable due to disability. The age threshold for the definition of “older adult” in these states is typically set at age 60 or 65. In two states, Ohio and New Jersey, the APS abuse registry only applies in cases where the victims are persons with intellectual or developmental disabilities.

Another nuance in the types of victims covered by registries in some states is that different entities in the same state may investigate different (or overlapping) victim types, depending on the setting of abuse and the characteristics of the victim. As such, abuse of some categories of victims may be covered by the registry if the abuse occurs in certain contexts and/or by certain types of perpetrators, but not others. These differing entities sometimes have different statutes, due process systems, or appeals timeframes that apply before or after a perpetrator has been investigated for abuse of a vulnerable adult, and/or placed on the APS abuse registry.

C. Perpetrator Type

In some states, the term “perpetrator,” as defined for purposes of APS abuse registry placement, may have a different meaning than the same term used for the scope of an adult abuse investigation. In most cases, the definition of a perpetrator for registry purposes is more restrictive than the definition of a perpetrator for APS investigations. For example, some types of perpetrators can have substantiated abuse findings but may not be placed on the registry. The exceptions to registry placement are typically due to factors such as the nature of the perpetrator’s relationship with the victim or the setting in which the abuse occurred.

Most APS abuse registries apply to paid employees providing direct care for vulnerable adults, but do not capture all individuals who provide care for vulnerable adults. For example, New Jersey specifically exempts unpaid family member perpetrators from being listed on the registry; Colorado specifically excludes volunteers. Oklahoma’s registry only lists perpetrators who are “community services workers” – a legally defined term in that state, encompassing unlicensed individuals providing services to persons with developmental disabilities – and personal care assistants funded by Medicaid. In Texas, the registry applies

²⁷ Illinois, Missouri, Nebraska, Ohio, Texas, Utah, Washington.

only to unlicensed employees working for certain state-regulated facilities and care providers.

As noted previously, adults who self-neglect, where their inability to meet their own care needs means that they are perpetrating neglect against themselves, are not typically listed on APS abuse registries. Exclusion of self-neglecting adults is not always explicitly stated in states' registry statutes; rather, some states make regulatory or policy-level exclusions of such cases.

Additionally, in some states, only perpetrators who were working (or, in some states, volunteering) in a position that was publicly funded are eligible for placement on the APS abuse registry. In these states, therefore, perpetrators who were working in a privately-funded position (that is, not funded by state or federal funds) at the time they committed abuse would not be eligible for registry placement.

Section V: Perpetrator Placement Process

A. Investigation Findings

Generally speaking, the registry process followed by most states begins with the conclusion of an APS investigation and subsequent notification to the perpetrator regarding the substantiated finding and the perpetrator's appeal rights. However, not all APS investigation findings result in placement on the APS abuse registry. Out of 19 states surveyed, the majority conduct investigations that yield binary investigative findings (e.g., confirmed or not confirmed²⁸). However, at least five states have two levels of substantiation associated with different levels of certainty about, or evidentiary thresholds for, the investigation's findings:

- Arizona distinguishes between substantiated findings and verified findings; substantiated cases have a higher level of certainty and result in registry placement, while verified findings do not.
- Illinois has a similar distinction between substantiated findings and verified findings, but expressly uses two different evidentiary standards – preponderance of the evidence for substantiated findings, and clear and convincing evidence for verified findings.²⁹ Only verified findings are placed on the registry.
- Missouri provides two levels of substantiation, both of which result in a perpetrator's placement on the registry: “reasonable belief,” wherein a substantial amount of evidence is found to support the allegation; and “suspected,” wherein, based on the worker's judgment, the allegations are probable or likely.
- Nebraska divides registry findings into “court-substantiated” and “agency substantiated” findings. Both types of cases are placed on the registry, but the manner in which the case is referred to the registry (and additionally, the burden of proof used to substantiate the allegation) differs. Court-substantiated findings result when a perpetrator is found guilty using the criminal evidentiary standard of beyond a reasonable doubt, or pleads guilty/no contest to criminal charges of abuse, neglect, or exploitation. Agency substantiated findings result when APS determines through its investigation, based on a preponderance of the evidence, that the perpetrator committed abuse, neglect, or exploitation, but there was no criminal court involvement.
- Utah distinguishes “supported findings,” which result in registry placement and are based on the reasonable basis that abuse occurred, from “inconclusive findings,” in which there is *not* reasonable basis that abuse occurred. These are both distinct from the third possible investigative finding, “without merit,” which is a finding that the abuse definitively did *not* occur.

²⁸ Other terminology, such as “substantiated or unsubstantiated” or “verified or not verified” may be used, depending on the state.

²⁹ Note that the terminology used is the same as that used by Arizona, but that the meanings of the terms are exactly opposite.

In addition to these distinctions in investigation findings, Ohio substantiates administrative investigations using the evidentiary threshold of a preponderance of the evidence, but clear and convincing evidence is required to escalate a case for consideration of perpetrator placement on the registry. Moreover, the state always has the burden of proof, which is not waived, even if the perpetrator does not request a hearing.³⁰

B. Notification of Placement on the Registry

All states require that the perpetrator be notified that they are being placed on the APS abuse registry. In addition to this perpetrator notification, it is also common for states to notify the:

- relevant licensing or certification agency³¹;
- perpetrator's employer³²;
- victim or his/her guardian, conservator, or agent³³; and
- state's Medicaid fraud unit³⁴.

States' investigation and appeals procedures affect notifications. In some states, a substantiated perpetrator is notified at the conclusion of the investigation that the allegation of abuse was substantiated, and that their name will be placed on the registry. In other states, notification of registry placement does not occur until after the perpetrator has exercised and/or exhausted their right(s) to appeal the investigation findings or the determination of registry placement.

Additional unique notification provisions include:

- In Iowa, in addition to the perpetrator and the victim or his/her guardian/conservator, mandatory reporters and the county attorney are also notified when a perpetrator is placed on the registry.
- In Hawaii, in addition to the perpetrator and the licensing/certification agency, the Office of the Public Guardian and case managers for victims with intellectual or developmental disabilities are also notified when a perpetrator is placed on the registry.

C. Length of Process

The length of time it takes for a perpetrator to be listed on the registry after a substantiated finding of abuse varies by state and depends on the nature of the appeals process available to the perpetrator. In some states³⁵, the perpetrator appeals the investigation finding before s/he is placed on the registry. In these states, if the perpetrator does not exercise his or her right to

³⁰ As previously noted, Ohio's registry applies only to persons found to have abused individuals with intellectual or developmental disabilities.

³¹ 9/21 – Hawaii, Kansas, Minnesota, Missouri, Nebraska, New Jersey, Ohio, Oklahoma, Texas.

³² 7/21 – Delaware, Illinois, Maine, Missouri, New Jersey, Oklahoma, Texas.

³³ 4/21 states – Delaware, Illinois, Iowa, Ohio.

³⁴ 3/21 states – Hawaii, Missouri, Ohio.

³⁵ 8/19 – Arizona, Illinois, Kansas, Kentucky, Maine, Tennessee, Texas, Washington.

appeal within the designated timeframe, placement of the perpetrator's name on the registry is automatic. In other states, however, the perpetrator is placed on the registry concurrently with the substantiation of the abuse allegation, and remains on the registry while the perpetrator's appeal is pending³⁶. There are also some idiosyncratic approaches:

- In Minnesota, a perpetrator can appeal the substantiated finding of abuse, the perpetrator's "disqualification" (placement on the registry), or both. The perpetrator is listed on the registry while the appeal process takes place.
- In Missouri, there is an internal review process which allows for discretion in determining whether a perpetrator is placed on the registry, and therefore the perpetrator appeals their placement on the registry separately from the substantiation of abuse. Registry placement is not effective until after the appeal process has been completed.
- In Nebraska, the perpetrator requests expungement, appealing the registry placement itself rather than the substantiation of abuse.
- In New Hampshire, if a perpetrator appeals and loses at the administrative level, s/he is placed on the registry at that point in the process. But, the perpetrator can choose to continue the appeals process by filing a request for reconsideration.
- New Jersey provides for both formal and informal appeals processes. A perpetrator may pursue one or both. If an informal appeal is requested, the perpetrator's name is not placed on the registry until after that appeal is completed. If a formal appeal is pursued, the perpetrator's name is placed on the registry with a notation in the registry entry that an appeal is pending. If a perpetrator requests both types of appeals, the informal appeal is conducted first, followed by the formal appeal. The perpetrator is not placed on the registry until after the perpetrator loses the informal appeal.

For states that do not place a perpetrator's name on the registry until the appeals process is completed, it is difficult to define an average amount of time the appeals process takes. In the states that provided this information, there were several different approaches. Some states' statutes or regulations specified 30-, 45-, or 60-day timelines for the conclusion of the administrative appeals process, while other states' legal foundations were silent on this matter. Furthermore, if a perpetrator chooses to appeal through the court(s), the appeals process can go on for quite some time, even years, in some examples.

³⁶ 4/19 – Colorado, Hawaii, Iowa, Oklahoma, Utah.

Section VI: Appeals Process

A. Due Process

Due process is defined as “a judicial requirement that enacted laws may not contain provisions that result in the unfair, arbitrary, or unreasonable treatment of an individual.”³⁷ All states with an APS abuse registry have due process provisions as part of their laws governing administration of the registry. In accordance with these provisions, because an action of the government (in this case, placement on an APS abuse registry) may, or actually will, affect a person’s employment prospects, perpetrators have the right to contest the addition of their names to a registry and/or the finding of abuse that leads to placement of their names on the registry. Due process procedures vary by state, but the options generally include a direct dispute with the program administering the registry, an administrative hearing, and/or a court hearing.

During the course of this project, the Committee identified two distinct processes for due process: appeals and expungements. Most states have an appeal process, a handful of states have an expungement process, and a few have both. The appeals process is a request for reconsideration of the perpetrator’s status as an abuser, with the perpetrator arguing that either the substantiated finding of abuse, or the perpetrator’s placement on the registry, or both, are unfounded. Expungement is a request for removal of a name from the registry, whereby the perpetrator is not contesting the substantiated finding of abuse, but rather, is arguing that the perpetrator’s name should be removed or erased from the registry, for example, due to the perpetrator’s efforts at rehabilitation. As this was an issue that was not identified until after data collection was complete for most states, data on this topic cannot be addressed fully in this report.

In nearly all states³⁸, if the perpetrator does not exercise his/her appeal rights within a certain period of time, placement on the APS abuse registry occurs (or becomes final) after that time period has elapsed³⁹. Appeal timeframes varied by state and responses given ranged from three days⁴⁰ to six months⁴¹ following notification to the perpetrator. States vary in whether they calculate this time as running from the date of issue, or the date of receipt, of the notification to the perpetrator. See Figure VI for additional information.

³⁷ “due process.” Merriam-Webster.com. 2017. <https://www.merriam-webster.com/dictionary/due%20process> (20 November 2017).

³⁸ The sole exception to this statement is Ohio. The burden of proof for registry placement remains on the state and is not waived, even if the perpetrator does not request a hearing. All registry placements are discretionary, as determined by the director of the registry’s administering agency, Ohio’s Department of Developmental Disabilities.

³⁹ The distinction between whether registry placement occurs or becomes final depends on whether the state places names on the registry before or after the appeals window has expired or the appeals process has been exhausted.

⁴⁰ New Hampshire.

⁴¹ Iowa.

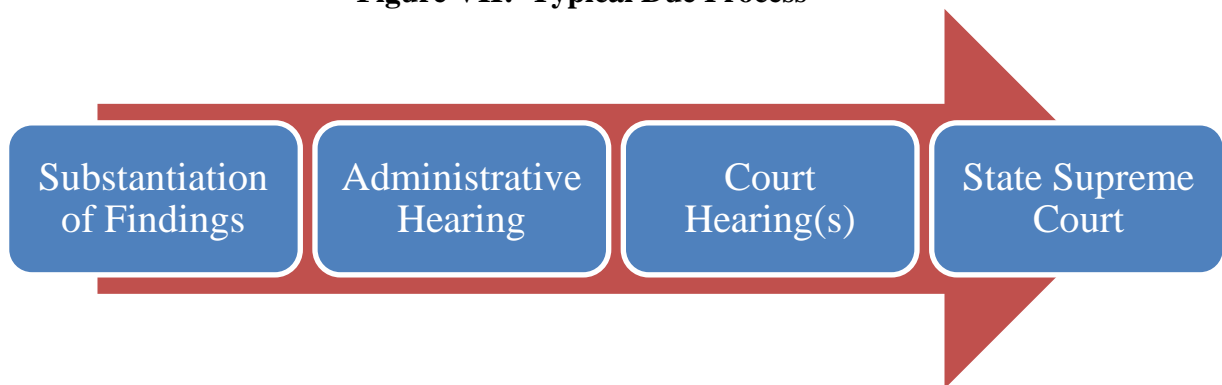
Figure VI: Timeline to Request Appeal (N=15)

Timeline	Number of States
3 Days	1 – New Hampshire
30 Days	10 – Kansas, Kentucky, Maine, Missouri, New Jersey, Ohio, Tennessee, Texas, Utah, Washington
90 Days	2 – Hawaii, Colorado
6 Months	1 – Iowa
None	1 – Nebraska

Many states allow up to three additional days to allow for notice to reach a perpetrator via mail. At least one state, Nebraska, has no deadline for appeals, and the state allows for an appeal at any time, as many times as desired. Illinois limits appeals to once every three years.

The formal appeal process often begins with a request for an administrative hearing. In Kentucky, the initial process was to automatically provide a hearing to each perpetrator who received a substantiated finding of abuse. This practice was subsequently redesigned so that perpetrators must now request a hearing, and if they do not do so in a timely fashion, they are automatically placed on the registry. Additionally, some states have added levels of informal appeals: Iowa allows for a pre-appeal process in which they may negotiate an agreement with the perpetrator in exchange for removal of their name from the registry, while New Jersey provides for an informal, internal appeal with department staff before placement on the registry. A typical formal appeal process begins with the conclusion of an investigation, followed by an administrative hearing, one or more court hearings, and possibly a hearing at the state’s supreme court. This process is outlined in Figure VII. Note that not all states provide for each level detailed, while some states have additional levels.

Figure VII: Typical Due Process



At each point in Figure VII, the finding of substantiation may be overturned or upheld. Subsequently, the party who lost the initial appeal is typically permitted to seek an additional appeal at the next level. For instance, in most states, a perpetrator whose substantiated finding is upheld at an administrative hearing may seek an additional appeal at the District, County, or Circuit Court (the lowest state court is typically the next level of appeal).

Notably, a few state respondents acknowledged that the state will not seek an appeal if the APS agency’s own findings are overturned. Some state respondents said they stop the appeal process if this occurs, although others will continue to pursue an appeal after consultation with legal counsel.

The majority of state respondents noted the potential of appeals to go all the way to the state supreme court, although most state respondents had no recollection or record of such a scenario occurring. It was noted by several state respondents that judicial appeals can significantly extend the duration of the process.

The vast majority of state respondents interviewed reported that only the perpetrator, as opposed to the abuse victim, family members, or witnesses, may request an appeal. In terms of victims’ rights, it appears that only two states⁴² allow a victim to request an appeal of the decision to place a perpetrator on the registry. Some state respondents interviewed said that although the victim is made aware of the outcome of the investigation, the victim does not have legal standing to request reconsideration of the decision to place the perpetrator’s name on the registry, or in any subsequent appeal results.

In many states, APS investigators must attend due process hearings, whether at the administrative or court levels. Two state respondents⁴³ reported that APS staff are required to attend these hearings, but do not have legal representation from the department to accompany them at every level. As further discussed in the “State-identified challenges and benefits of registries” section below, the level of effort required to provide adequate due process was cited as an issue with state APS abuse registries, given the amount of time involved in attending hearings and providing evidence of investigation findings.

All state respondents were asked for information on the average success rate of an appeal. Not all states were able to provide an answer to the question. Of 14 states responding, half reported that they track such data.

Figure VIII: States that Track Success of Appeals (N=14)

Tracks Success Rates of Appeals	Number of States
Yes	7
No	7

Those that did track data did so in different ways, from simple measurements of the end result of the appeal process to more specific metrics of which levels of appeals yielded success on either the perpetrator’s or the program’s end.

⁴² Iowa, Minnesota.

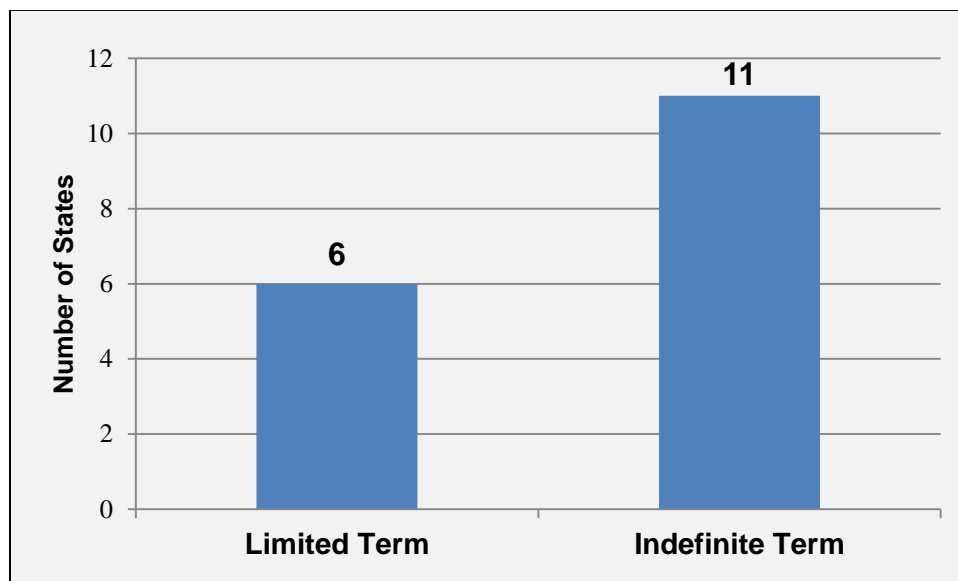
⁴³ Iowa, Washington.

B. Duration of Registry Listings

A majority of state respondents reported that names stay on the APS abuse registry “indefinitely,” unless the perpetrator successfully completes that state’s appeals process. Missouri reported the shortest listing term, of six months; however, the listing term in Missouri ranges from placement for six months to permanent placement. Kentucky reported a seven-year listing term for low-level offenses or a lifetime listing term for cases of fatality or near fatality. New Hampshire reported a maximum term of seven years, and Arizona reported a listing term of 25 years.

Two state respondents reported a discretionary component to the term of a perpetrator’s listing on the registry: in Delaware, the length of time a name is listed on the abuse registry is based on the seriousness of the incident and whether there exists a pattern of adult abuse. This determination is made by the hearing officer, who may also consider evidence of mitigating circumstances. In Missouri, the length of registry placement is based on factors such as: whether the perpetrator acted recklessly or knowingly; the degree of harm or imminent danger to the victim; the degree of misappropriation of property or funds, or falsification of any documents for service delivery; whether the perpetrator has been previously listed on the APS abuse registry; any mitigating circumstances; or any aggravating circumstances. Missouri’s statutory framework also provides for the implementation of alternative sanctions, such as additional training or employee counseling, in lieu of placing the perpetrator on the APS abuse registry.

Figure IX: Duration of Registry Listing (N=17)



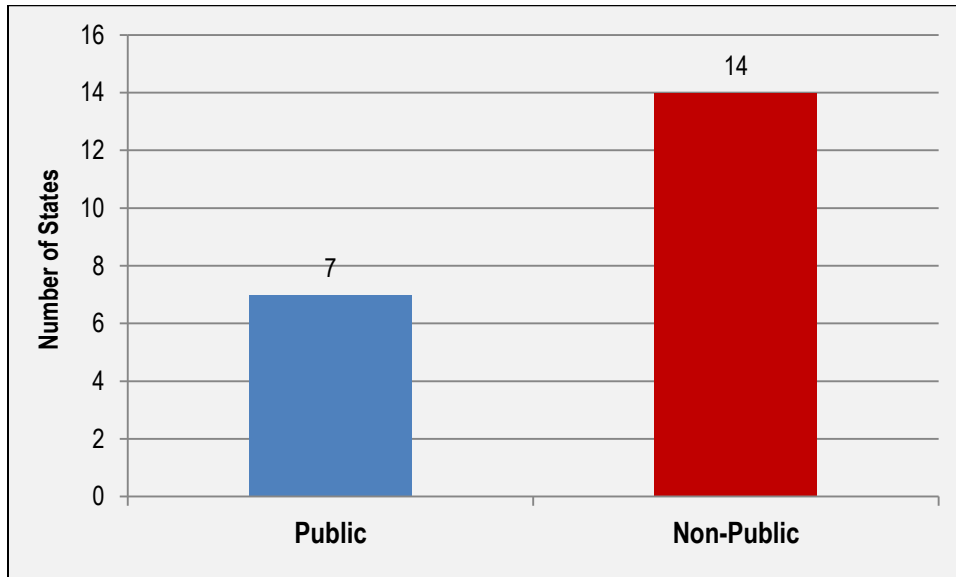
One state respondent noted that although perpetrators are placed on the registry for an indefinite term in that state, perpetrators listed on that state’s registry are eligible to petition for removal after a certain number of years; however, this state does not advertise this option to perpetrators listed on the registry.

Section VII: Registry Information Access

A. Registry Users

Access to APS abuse registries can be roughly broken down into two categories: public and non-public. One-third⁴⁴ of participating states with registries have a public registry. In all but one of these states, the public can access the registry using names via a web-based system. Arizona offers an alphabetized list of perpetrator names, while most other states with web-based systems require information about a perpetrator, including, in some cases, a full social security number. Washington does not offer the ability for the public to query individuals online, but members of the public can call, and the department will confirm whether there is a match.

Figure X: Public vs. Non-Public Access (N=21)



In the majority of states⁴⁵, however, APS abuse registry information, including the presence of someone's name on the registry, is not available to the public by any means. Generally speaking, those states limit access to registry information to certain types of employers, service providers, and/or state disability agencies. In many cases, even when an agency has a mandate to check whether prospective employees are on the registry, the agency must still provide a release from the prospective employee to access that person's information from the registry. Therefore, a requirement that an agency check the registry does not necessarily translate into the agency's automatic ability to access that information.

There are many similarities across states in the broad categories of employers who are required to check, or permitted to access, information on a state's APS abuse registry. Most

⁴⁴ 7/21 – Arizona, Delaware, Ohio, Oklahoma, Tennessee, Texas, Washington.

⁴⁵ 14/21 – Colorado, Hawaii, Illinois, Iowa, Kansas, Kentucky, Maine, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, Utah, West Virginia.

states have registry check requirements for employees of certain types of licensed facilities or licensed service providers, but these facility, service provider, or license types all vary from state to state. Some of the types of employers in many states who are specifically mandated or permitted to access the registry are:

- APS staff;
- staff of the Department of Public Health (or a particular state's equivalent department, even if titled differently);
- health/healthcare facilities (including hospitals and skilled nursing facilities);
- adult daycare facilities;
- residential programs;
- adult foster homes;
- facilities for persons with mental illness;
- intermediate care facilities;
- homemakers or home health aides;
- facilities for persons with intellectual or developmental disabilities;
- child foster homes;
- childcare centers; and
- independent living agencies.

Of the states surveyed, certain unique provisions stand out for agencies which are required to check, and/or which have access to, information on the APS abuse registry. They include:

- veterans' community living centers⁴⁶;
- hospices⁴⁷;
- home and community-based case management agencies⁴⁸;
- CNA and nursing training programs⁴⁹;
- CPS workers⁵⁰; and
- in specific circumstances, a consumer reporting agency regulated by the federal Fair Credit Reporting Act.⁵¹

⁴⁶ Colorado.

⁴⁷ Hawaii, Iowa.

⁴⁸ Hawaii.

⁴⁹ Iowa.

⁵⁰ Minnesota.

⁵¹ Missouri.

B. Release of Information to Employers in States with Non-Public Registries

Of the 14 states with non-public APS abuse registries, most⁵² require at least some requestors of registry information to provide a signed release from the person whose name will be searched on the registry before information about that person will be released. States vary on how broad this requirement for a release is. In some states⁵³, certain types of employers or other specially authorized recipients are not required to provide this release. In other states, a release is required in all circumstances, even when the requestor is an employer looking up a prospective employee. There are also additional nuances as to how such releases for information interact with confidential registries:

- In New Hampshire, a release is not required for employers to receive information regarding whether a *new hire* is listed on the registry, but a release is required to conduct a registry check for *current* employees, or to seek additional information about a confirmed abuse allegation.
- Iowa employers required to perform a registry check must obtain the employee's signed *acknowledgment*, rather than consent, to perform the check. The acknowledgment functions as a *de facto* release of information.⁵⁴

C. How Do Employers Access Information that is on a Non-Public Registry?

Among states with non-public registries, at least five states allow employer access to registry information without requiring a release from the information subject. Some of these states⁵⁵ have a dedicated website where employers register for access to ensure they are entitled to registry information. In other states, similar measures are taken on a more informal basis, such as by requiring the requestor's name, title, and agency, or noting the domain name of the requestor's email address to confirm the request is from an agency authorized to receive information.

In the balance of states with non-public registries, a release from the information subject is required before information will be disseminated to *anyone*, even a requesting employer. This typically involves a form that is completed, signed by the information subject, and submitted by mail, fax, or email.

D. Mandate to Check the Registry

The majority of states with registries, whether public or not,⁵⁶ requires certain employers (such as state disability agencies, service providers for adults with disabilities or elderly

⁵² 10/14 – Colorado, Hawaii, Iowa, Kansas, Kentucky, Nebraska, New Hampshire, Utah, Washington, West Virginia.

⁵³ Iowa, Kansas, Kentucky, Minnesota, Missouri, New Hampshire, New Jersey.

⁵⁴ Iowa notes that, as of February 2018, the system is transitioning from the acknowledgment approach to an authorization requirement.

⁵⁵ For example, New Jersey.

⁵⁶ 18/21 – Colorado, Delaware, Hawaii, Illinois, Iowa, Kentucky, Maine, Minnesota, Missouri, New Hampshire, New Jersey, Ohio, Oklahoma, Tennessee, Texas, Utah, Washington, West Virginia.

adults, or service providers for children) to check the registry. However, not all of these states prohibit an employer from hiring a person listed on the registry (see Figure XI). Arizona recommends, but does not require, that employers check the registry.

Figure XI: Mandated Check and/or Bar to Employment (N=21)

State	Mandated Check	Bar to Employment
Arizona		
Colorado	X	
Delaware	X	
Hawaii	X	X
Illinois	X	X
Iowa	X	X
Kansas		
Kentucky	X	
Maine	X	
Minnesota	X	X
Missouri	X	X
Nebraska		
New Hampshire	X	X ⁵⁷
New Jersey	X	X
Ohio	X	X
Oklahoma	X	X
Tennessee	X	X
Texas	X	X
Utah	X	
Washington state	X	
West Virginia	X	X

⁵⁷ In New Hampshire, the bar to employment applies only to new hires, not current employees.

Section VIII: Prohibition on Hiring Individuals Listed on the Registry

As noted in Figure XI, more than half of the responding states⁵⁸ have a statutory bar to hiring listed perpetrators to work with specified vulnerable populations. In several states, certain conditions apply to whether or not a listed perpetrator is barred from employment:

- In Minnesota, the existence of a bar to employment depends on the nature of the offense, and appears to apply only to positions allowing direct contact with persons receiving services. “Direct contact” is defined as “providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by the program.”
- In New Hampshire, the bar to employment applies only to new hires. New Hampshire’s law does not mandate that employers terminate current employees who are placed on the registry while they are employed.
- While Delaware does not appear to explicitly bar employment, it does require that a prospective employee be informed and formally acknowledge that his or her employment is “conditional and contingent” upon receipt of the registry check. It is unclear whether this reflects a bar on employment or only requires that the registry be checked.

Eight states⁵⁹ appear to provide an exemption for individuals who are hiring their own staff to provide direct care in the individuals’ homes. These exemptions permit individuals to hire perpetrators listed on the registry, although the exemptions seem to apply only to private-pay staff in this situation, as further described in the “Prohibition of Use of Public Funds to Hire People Listed on the Registry” section, below.

A. Prohibition of Use of Public Funds to Hire People Listed on the Registry

In slightly more than half of the states with a bar to employment⁶⁰, public funding for services has an impact on employment of persons on the APS abuse registry. In these states, public funds may not be used to pay for services by a person listed on the registry, although this can vary depending on the nature of the program. In some states⁶¹, if a perpetrator is listed on the registry, s/he is ineligible for any position paid for by any state funds. In other states⁶², it appears that perpetrators listed on the registry are ineligible for employment only within certain state-funded programs.

The inclusion of public funding factors in registry placement or bars to employment occasionally leads to some overlap with the federal Medicaid system and its LEIE.

⁵⁸ 12/21 – Hawaii, Illinois, Iowa, Minnesota, Missouri, New Hampshire, New Jersey, Ohio, Oklahoma, Tennessee, Texas, West Virginia.

⁵⁹ Illinois, Missouri, New Hampshire, New Jersey, Oklahoma, Tennessee, Texas, West Virginia.

⁶⁰ 7/12 – Illinois, Missouri, New Hampshire, New Jersey, Oklahoma, Texas, West Virginia.

⁶¹ For example, Illinois.

⁶² For example, Oklahoma.

Section IX: Lessons Learned

As a component of the interview with state respondents, interviewees were asked to share their knowledge and perspectives of the benefits, challenges, and operational issues experienced with their state's APS abuse registry, as well as any future plans for the state's registry. Comments received in response to these questions, supported by recurrent points identified throughout the project, are reflected in the themes discussed below.

A. State Respondent-Identified Benefits of Registries

1. Registries may help prevent abusers' future access to vulnerable adults

The benefit of having an APS abuse registry that was most frequently cited by state respondents is that it helps to prevent known abusers from moving to new caregiving positions where they would again have access to vulnerable adults. State respondents articulated that the registry functions as a protection for possible future victims, as well as the general public. One state respondent also said that the protections of the registry extend to guardianship and adoption cases in that state, as courts receive notification of an individual's registry status. Another state respondent noted that their registry takes perpetrators out of the healthcare system and saves Medicaid costs.

2. Registries may increase perpetrator accountability and may deter future perpetration

Another benefit several state respondents reported was that registries hold perpetrators accountable for their actions. A few state respondents discussed the effect of the registry on licensing, with one state respondent reporting that registry placement will automatically result in the loss of a facility's license. In this situation, a small facility would not be able to take new patients unless the confirmation of abuse is overturned, which ensures that nobody is endangered during that time.

State respondents also reported the effect of the registry on perpetrators: one state respondent felt that its registry may act as a deterrent to keep perpetrators from abusing, while another noted that perpetrators may seek out additional training or rehabilitation that they might not otherwise have had, to seek expungement.

3. Registries may assist service providers in improving hiring practices

One state respondent said that employers can make more educated decisions about prospective employees, even if an employer is not barred from hiring a listed perpetrator by law. Another state respondent reported that the registry gives users a sense of safety, so they know they are doing their due diligence to ensure the safety of people who will be interacting with a prospective employee.

4. Registries may have some positive effects on APS

One state respondent noted that its registry provided a history of recidivism, as well as statistical data to support requests for APS funding. Another state respondent reported that the bill enacting its registry required investigation training for all counties, which will improve the quality of APS investigations. Still another state respondent noted that its registry has generated a good partnership and collaboration between the state and its partners, and also attributes a recent increase in abuse reports to the existence of the registry. One other state respondent said that the public nature of its registry is a benefit, as is the fact that the registry is continually growing and encompassing more employees and provider types.

5. Operational successes

Operationally, multiple state respondents reported that their registry process is efficient and works well. One state respondent added the caveat that the flow of information from APS to other government agencies usually works well, as long as APS staff are diligent about sending information. State respondents also mentioned shared communication and successful coordination across intra-agency lines. One state respondent reported that checks for APS and child protective services are done by the same staff, which helps streamline the process. Several state respondents gave usage statistics, including 120-1500 checks per month, 3,000 requests per month, and over 100,000 checks per year.

Other identified operational successes identified by state respondents included having dedicated staff who do only registry work, which allows those staff to become knowledgeable and proficient; having the registry housed within the APS department and staffed by APS staff; dedicated and effective caseworkers who investigate cases; training of county investigators; and being able to notify perpetrators by email.

B. State Respondent-Identified Challenges of Registries

State respondents identified a number of challenges to the registry. Some were nearly universal, while others were specific to that state's particular registry system:

1. There is a conflict between focusing on the needs of vulnerable adults and gathering evidence against the perpetrator

A number of state respondents brought up the tension that exists for APS investigators between gathering information for a good assessment of a vulnerable adult's protective service needs versus gathering evidence that will stand if the perpetrator appeals. Several state respondents expressed that it is difficult to meet both of these objectives in a timely fashion. Additionally, state respondents reported having to shift their method of investigation to gather evidence in anticipation of an appeal, which leads to a shift in focus of the investigation onto substantiating/punishing the abuser, rather than protecting the vulnerable adult. One state respondent reported that it has added a level of standard review of substantiated cases before they are finalized to ensure quality. Another state

respondent noted that with a registry, investigations can take longer not only because investigators are focused on gathering evidence, but also because there are other registry-related factors that increase investigators' workloads, such as having to take time away from investigations to travel to hearings. Finally, one state respondent brought up the possible chilling effect a registry may have on perpetrators and witnesses – with a registry impacting perpetrators' employment prospects, there can be severe consequences for participating in an investigation.

One state respondent has addressed this conflict by separating investigative staff from staff who focus on individuals' protective service needs. In that state, when an investigator identifies a protective service need during the course of an investigation, the investigator refers a new report directly to the staff responsible for protective services.

2. The scope of the registry is not ideal

State respondents were split on feeling that their registries either should be broader and include additional types of caregivers, or that the registry included certain types of perpetrators who were not appropriate for registry placement. For state respondents who felt their registry should capture more types of perpetrators, one state respondent felt that para-professionals, including housekeepers, should be included on the registry, not just caregivers. Another state respondent believed that the registry needed to expand beyond professions serving people with disabilities to include other professions, such as certified nursing assistants working in nursing homes. A third state respondent noted that its registry does not include individuals who have used their caregiving position to gain access to individuals they subsequently exploit – that is, there is no registry placement for abusing someone outside the scope of one's employment. Finally, one state respondent felt it was a weakness that their registry was limited solely to caregivers for persons with developmental disabilities. Given this narrow focus, the extent of the registry is limited, as a perpetrator could simply work with a provider not required to utilize the registry.

On the other hand, one state respondent felt it was a weakness that any caregiver, whether paid or unpaid, including family members, could be included on that state's registry, while another state respondent disliked that their particular state's registry included informal caregivers, feeling that the registry should include only paid, formal caregivers. A third state respondent echoed this, saying that they did not see the benefit of listing unpaid perpetrators on the registry.

In one state, the obligation to terminate perpetrators listed on the registry applies only to new hires, so if a current employee is listed on the registry, the employer is not mandated to terminate that person. Another state respondent noted that listed perpetrators will continue to seek and gain employment by moving out of licensed organizations and into private, unregulated areas of service, or by just moving out of the state completely. In general, since APS registries cover a small portion of abuse that occurs, even when the perpetrators go on the registry, they may go on to abuse other vulnerable adults in a setting not covered by the registry.

3. Registries require additional funding and resources

One state respondent reported that because running the registry is “incredibly time-consuming and complicated,” meeting the obligations of running the registry diverted funds from direct services to the registry, and more funding was required to maintain the registry. Other state respondents identified the need for additional staff, such as nurses, because social workers are not inherently aware of how to read medical records; legal staff, because the registry process requires fairly consistent legal consultation; or IT help. Another state respondent characterized the appeals process as “time-consuming,” because attorneys are often overwhelmed and cannot get to cases quickly.

Florida’s APS abuse registry was discontinued in 2000. According to the chair of the Committee on Elder Affairs and Long Term Care, which sponsored the bill repealing Florida’s registry statutes, this committee decided that using the APS abuse registry as an employment screening tool was too costly for the state (which was projected to save up to \$5 million per year as a result of the repeal), unfair to those accused, and ineffective. Furthermore, this committee chair said, these checks created the illusion of a safeguard, because, based on the statistics, they did not work.

4. Administering a registry creates challenges for APS

Several state respondents reported that operating or administering a registry impacts APS operations and sometimes interferes with APS duties: one state respondent said that questions remained for that state regarding who handles due process, in addition to a question about whether victim consent is needed to share victim information in an administrative hearing setting. Another state respondent identified the registry as a “source of frustration” that has negatively affected staff morale. Higher scrutiny of cases has led to more overturned cases, and investigators in that state are beginning to feel that their work isn’t valid, which is discouraging. A third state respondent said that because APS does not have the resources they need, their caseloads have been too high, so the practice has been to not investigate cases where an issue had been resolved. The implementation of the registry has changed this, and they are investigating all of these cases for “numbers purposes.” A fourth state respondent felt that the number of people involved in the process was a challenge, and stated that streamlining would reduce issues such as lost paperwork, which results in cases falling through the cracks. Another state respondent identified the challenge that any interested party, not just the perpetrator, can appeal an APS substantiated finding in that state.

5. Substantial administrative time is necessary to manage registry information and data

One state respondent reported having to devote resources to perpetrators who are confused about the nature of the paperwork – for example, sometimes someone will submit appeal paperwork, but they are not looking for appeal/removal, they just want their name spelled correctly. Another state respondent identified human error in data entry as an issue, although they hoped that their new database system will provide a

solution. A third state respondent echoed this concern about data integrity, especially with historical information. A few state respondents identified a challenge in keeping up with perpetrator name changes and maintaining accurate addresses for notification purposes. Finally, one state respondent whose agency manages a web portal requiring employers to log in and check the registry cited the challenges associated with managing employers' usernames and passwords.

6. Coordination with outside entities and the public presents challenges

One state respondent reported that their state experienced initial challenges after the registry was established because the administrative law judges charged with doing the appeals hearings needed to be educated about the APS agency, its duties, and its statute. The administrative law judges in this state were also initially expecting victims to testify at appeal hearings, and it took some time to improve. This state respondent also identified that the registry appeals hearings have been used as a forum for expression of political grudges if the hearing agency/officer has a particular issue with APS or some other involved agency. Another state respondent reported that the legislators in that state worried about the registry limiting employment options for people, while the state respondent perceives the process to be fair. A third state respondent identified the possibility that information sharing and overlapping jurisdictions could lead to agencies rendering differing opinions about the same matter.

The issue of how APS compares to child protective services also came up. One state respondent felt that its regulations and statutes needed to be aligned to mirror those of child protective services in that state, while another state respondent said that sharing the database with child protective services can be challenging, and that the state respondent would like APS operating independently.

Finally, a few state respondents brought up the issue of the public's access to the registry. One state respondent whose state has a non-public registry stated that people will sometimes get upset if they feel they should have access to the registry but in fact do not. Another state respondent felt that it was a downside that the registry was confidential and not public.

7. A perfect timeline for due process does not exist

Several state respondents expressed concern about a perpetrator's ability to remain employed while their due process rights ran their course. In these states, the hearing process must be completed before a perpetrator can be listed on the registry, so the perpetrator can either remain employed or can move to a new position and come back with a "clean" registry check because the appeals process is not yet final. One state respondent noted that employers in their state were only required to check their employees annually, so an employer may end up employing a listed perpetrator for up to a year before checking the registry. This state respondent expressed that they would like to see employers mandated to check the registry quarterly. On the other hand, one state respondent felt that it was unfair to perpetrators to list them on the registry, which could

affect their employment, before they were afforded a hearing.

8. Ethical issues may arise in managing a registry

As alluded to in the challenge discussing the tension between providing for a victim's protective service needs versus gathering sufficient evidence to withstand an appeal, some state respondents expressed a concern that having a registry removes APS's focus from the victim and places it on the perpetrator. One respondent noted that this is a philosophical shift from the APS model of an exclusively victim-oriented, engagement/empowerment approach to one that now includes perpetrator accountability. This tension has been an ongoing issue for APS, and having a registry can add to the challenge.

Another ethical issue raised by a state respondent was the question of removal from the registry. In that state, currently only certified nursing assistants can apply for removal from the registry, but other types of perpetrators do not have the option to apply for removal.

9. Operational challenges

Operationally, several state respondents identified a need for more resources as a significant problem in operating their registries. Resources needed included primarily employees, but information technology support and an updated database/computer system were also mentioned. A few state respondents noted that the time requirements necessary at various levels of the process were an operational and resource problem, and are especially difficult when there is a lack of funding for the registry.

Another issue mentioned by multiple state respondents was difficulty with consistency. One state respondent had experienced challenges with consistency over time, as well as within different geographic regions of the state. Another state respondent had a different issue with consistency, facing varying and contradictory interpretations of APS law, regulations and policy applied by administrative hearing officers, which caused some concern and instability in carrying out day-to-day investigative activities. This state respondent likened it to "a 'tail wagging the dog' scenario, where each dog has a unique wag."

There were also some process issues identified, including one state respondent listing data entry issues; one state respondent noting that nursing homes are not using the registry in that state because the statute does not require them to do so; and one state had issues with allegations for which there is not yet a determination in the system. This state respondent noted that because APS does not have a lot of turnover, they can often go to the caseworker to get a determination if it is not yet in the system. Another state respondent identified numerous "kinks" to be worked out regarding the agency's obligations to ensure that: providers are checking the registry as required; providers have terminated staff who are listed on the registry; and a requirement for employees to sign a notice that they were notified about the registry is being followed. This state respondent

also noted that its appeals process is cumbersome and needs to be simplified.

C. Future Plans for State Registries

State respondents who were interviewed were asked about any future plans for their registries. In addition to one state respondent who said that they plan to attempt to insulate direct APS staff from the registry process as much as possible, several state respondents said they intended to undertake systems information-related upgrades, including:

- transitioning to a web-based system so it would be easier to share information or to allow people to conduct online lookups;
- partially automating the system's response to requestors or the match process for Medicaid clients being investigated by APS;
- updating databases;
- streamlining records and processes; and
- collecting demographic information for child protective services and possible future APS reporting requirements.

State respondents also listed things they would like to happen to their registry someday, including:

- having the registry exist independently of APS;
- having the registry opened up to more populations, such as providers/employers who serve persons who have a mental illness, persons who have a traumatic brain injury, or children with disabilities; and
- adding a way to remove names and maybe have better documentation.

Section X: Conclusion and Recommendations

A. Conclusion

Throughout the years, NAPSA has received repeated and increasing requests from multiple states on the need for technical assistance regarding the implementation and impact of APS abuse registries. Given this, NAPSA, in January 2016, formed the APS Abuse Registry Ad Hoc Committee to analyze states' APS abuse registries and prepare a technical assistance paper that outlines the current lay of the land and what impact APS abuse registries have on APS work and practice. NAPSA began this journey, not only to gain a better understanding of the impact of APS registries, but also, in the event that a state is contemplating the creation of an APS abuse registry, to have technical information available that will inform and provide guidance to APS on this issue. Although a great deal of knowledge has been obtained on the components and impact of APS registries through this review, it is clear that much more research and examination is needed, as this is just the beginning of the conversation. There is a need to fully understand APS registries and the effect they have, not only on APS programs, staff, and systems, but also on adult victims with disabilities and older vulnerable adult victims.

Subsequent to an initial online survey, 26 states with APS abuse registries meeting the Committee's definition were identified as having an APS registry. Of those 26 states, 21 contributed information to this project via a second, more detailed online survey and a subsequent telephone interview. Information was collected and analyzed on numerous topics dealing with the origin and scope of registries, key organizational characteristics and processes, resources used to operate registries, access to and uses of registry information, and perspectives on lessons learned by states in operating registries.

The primary revelation to come out of this project is that there is significant diversity at all levels of registry processes across the nation. Recognizing this, the Committee is unable to highlight any particular APS abuse registry as being superior to another. APS abuse registries vary by age, disability, location of the abuse, offender type, nature of abuse, funding, staffing and more. Although some APS abuse registries are inclusive of all vulnerable adults age 18 and older, other APS abuse registries are limited to individuals who reside in facilities certified, licensed, or funded by the state, or are limited to a particular disability such as individuals with intellectual or developmental disabilities.

Despite the diversity of APS abuse registries, the primary objective of an APS abuse registry is to prevent certain abusers from gaining access to vulnerable adults in the future. Through the creation and maintenance of an APS abuse registry, a secondary objective is holding perpetrators accountable for abusing vulnerable adults by preventing employment and/or stripping perpetrators of their licenses. In addition, the very nature of having an APS abuse registry may deter a potential perpetrator from abusing a vulnerable adult. Identified benefits of APS registries included mandated training for APS investigators resulting in enhanced investigations, and better-informed hiring decisions by provider agencies with access to the APS abuse registry.

Several state respondents expressed the opinion that having an APS abuse registry is at odds with the main role and purpose of APS as it has been conceived thus far. Traditionally, the goal of an APS system is to protect vulnerable adults who have been the victims of abuse and neglect, with a focus on the implementation of protective services. There exists a current of opinion in some areas of the APS community that operation of, and focus on, APS abuse registries represents an undesirable shift away from traditional APS ethics that prioritize the interests of the victim and the duty to protect the safety of the vulnerable adults.⁶³ APS has historically struggled to balance the interests of vulnerable adults with the rights of accused perpetrators. With the addition of a registry, some respondents felt that the scale was tipped from primarily protecting the vulnerable adult to putting too much emphasis on the perpetrator.

Some APS professionals question the perceived overlap between APS abuse registries and the role of the criminal justice system to conduct criminal investigations and punish perpetrators. It has been suggested that states can have a criminal background screening process to prohibit convicted abusers from working with vulnerable adults, and that shifting the responsibility of law enforcement to APS is not the proper solution to holding perpetrators accountable. Another issue is that the APS process is not intended to adjudicate the guilt of the perpetrator; rather, the goal of an APS investigation is to review a situation to determine whether a vulnerable adult has been abused or neglected, and to put in place measures, including protective services, to remediate an abusive situation and improve the overall wellbeing of the vulnerable adult.

An additional expressed concern is that APS abuse registries can create a false sense of safety and security, especially in states where registry placement is not final while an appeal is pending. In those states, a perpetrator can still be employed by a service provider, and many states do not have a mechanism by which the employer is notified when the employee is referred for registry placement. In this scenario, having a registry simply creates the appearance of safety for vulnerable adults, who may actually not be safe under these circumstances.

Some APS professionals also expressed concern over the inclusion of informal caregivers on registries, and the potential stigma associated with registry placement for an otherwise well-intentioned family member or friend. In many of those situations, the abuse or neglect is passive in nature and is a product of caregiver stress, lack of resources or support network, ignorance, or lack of ability. While this is no excuse for abuse, neglect, or exploitation of a vulnerable adult, the unintended consequence of such caregivers being included on a registry subverts one of the basic tenets of APS by undermining the ability to effectively engage, support, and rehabilitate this type of caregiver, who is typically providing care to the victim as a result of the victim's wishes.

Although APS abuse registries vary greatly from state to state, three components common to APS abuse registries in nearly all responding states are:

1. There is a requirement that the perpetrator be notified that they are being placed on the

⁶³ See "NAPSA (or APS) Code of Ethics, <http://www.napsa-now.org/about-napsa/code-of-ethics/>.

APS abuse registry;

2. There are due process provisions as part of the laws or regulations governing the administration of the APS abuse registry; and
3. If the perpetrator does not exercise their appeal rights within a certain period of time, placement on the APS abuse registry occurs (or becomes final) after that time period has elapsed.⁶⁴

As APS is in the business of protecting vulnerable adults, anything that can be done to assist APS in its protection efforts should be done. The concept of an APS abuse registry at first glance seems ideal to enhance safety. However, APS abuse registries are complex, and if not well-defined and funded, an APS abuse registry may not achieve its intended purpose. States currently contemplating creating an APS abuse registry or states modifying their existing APS abuse registries must consider:

Capacity for a Registry

- What funds are needed to operate an APS abuse registry?
- What will the source of those funds be?
- What staff are needed to maintain the APS abuse registry?
- Where will the APS abuse registry be housed?

Intent of the Registry

- What types of perpetrators should be listed on the registry?
- Is the registry a *do not hire* list?

Administration of the Registry

- How will registry processes interact with APS processes?
- Will other registries be linked with the APS abuse registry?
- What information will be included in the APS abuse registry?
- Who will have access to the APS abuse registry?
- How will registry information be accessed?
- How will registry information be maintained?

Core Registry Processes

- How should someone get to be placed on the APS abuse registry?
- Who should be notified when someone is placed on the APS abuse registry?
- What type of appeal process is necessary for the registry?

⁶⁴ As previously noted, Ohio is the sole exception to this rule.

- What is the duration of a perpetrator’s placement on the APS abuse registry?

Impact

- Who will the APS abuse registry protect?
- What impact will the APS abuse registry have on APS clients and perpetrators?
- What is the potential impact of an APS abuse registry on APS staff?
- What is the potential impact of an APS abuse registry on non-APS staff (administrative law judges, Attorney General’s staff, child protective services)?
- What type of education and training will be required? For whom (service providers, APS staff, administrative law judges)?

B. Recommendations

Despite the wide variety of APS abuse registry processes and systems in place across the country, and despite the significant diversity within APS more broadly, this Committee is able to make several broad recommendations:

- 1. An APS abuse registry must be adequately funded in accordance with the mission, structure, and goals of the registry:** providing an unfunded or under-funded mandate to an already under-resourced APS system will remove critical resources from vulnerable adults and place those adults at further risk of harm.
- 2. An APS abuse registry must provide for dedicated registry staff:** APS investigators and administrators already have full workloads. Additional staff, dedicated solely to registry operations, will ensure the devotion of resources and cultivation of expertise necessary to sustain a registry that adds to, rather than takes from, the APS system.
- 3. States with APS abuse registries should identify a way to measure the effectiveness and efficiency of having a registry:** the Committee is not aware of any research on whether APS abuse registries are an effective or efficient use of public resources. It would be helpful if performance measures could be created and implemented to determine whether this is a viable solution to reduce the abuse and neglect of vulnerable adults. States looking to implement performance measures should consult with NAPSA for technical assistance in developing any types of evaluative measure since issues about cause and effect within APS programs are especially complex.
- 4. NAPSA should create a networking group for states with registries:** throughout the interview process, state respondents expressed an interest in having a forum to discuss the unique issues presented by APS abuse registries with other states who had addressed similar challenges. NAPSA anticipates creating a listserv to provide such a forum for APS administrators in states with APS abuse registries.

5. Research Considerations:

- As noted previously, research devoted to measuring the efficacy and efficiency of APS abuse registries is recommended.
- Further research conducted on states' approaches to due process through the separate paths of appeal and expungement is needed. This distinction did not rise to the Committee's awareness until midway through the project, so although it is partially addressed in this report, further definitive study is recommended.
- Additional clarification regarding the overlap between APS abuse registries, including perpetrators who are paid with public funds and the federal Medicaid system and its LEIE, is necessary.
- Another area where the Committee lacked information to fully expound was in the question of employment restrictions. Several specific topics to be explored are:
 - In some states, it appears that employers could hire a person listed on the registry if that person did not provide direct care (for example, as administrative or custodial staff), or did not provide unsupervised direct care (implying that if the care provided by the perpetrator were to be supervised, the perpetrator could be employed to provide direct care to vulnerable adults). This needs to be confirmed and clarified.
 - A closer analysis of people directly hiring their own care staff, either with private or public funds, needs to be conducted. It appears that some states may omit such privately-hired perpetrators from being listed on the registry, while other states may or may not prohibit listed perpetrators from being directly employed by a vulnerable adult.

Appendices

- Survey 1
- Survey 2
- Interview Questions
- State Legal Citations and Websites

Appendix 1: Survey 1

Adult Abuse Registry

An Adult Abuse Registry is a system for maintaining the identity of individuals who are found, only as a result of an Adult Protective Services (APS) investigation, to have abused, neglected or exploited seniors or adults (18 and older) with disabilities living in the community or in a facility. The purpose of such a Registry is to make this information available to individuals, agencies or employers who are authorized to receive such information.[1]

[1] Duke, Joy. Summary of Findings of a National Survey on Adult Abuse Central Registries, Victimization of the Elderly and Disabled, January/February 1999. Rpt. in Abuse and Neglect of Vulnerable Adult Populations. Ed. Otto, Joanne Marlatt, 2005.

* 1. What state/county do you represent?

* 2. Does your state have an Adult Abuse Registry as defined above?

Yes

No

Adult Abuse Registry

* 3. Has your state ever had an Adult Abuse Registry but is now disbanded?

Yes

No

Adult Abuse Registry

* 4. Which types of settings investigated by APS are covered by the Adult Abuse Registry? Please check all that apply.

- Elders residing in the community (private family home)
- Vulnerable elders residing in the community (private family home)
- Adults with disabilities residing in the community (private family home)
- Elders residing in board and care homes
- Adults with disabilities residing in board and care homes
- Elders residing in residential programs
- Adults with disabilities residing in residential programs
- Adults with disabilities residing in Intermediate Care Facilities for Adults with Intellectual Disabilities
- Elders residing in long-term care facilities (nursing homes)
- Adults with disabilities residing in long-term care facilities (nursing homes)
- Elders residing in mental health facilities
- Adults with disabilities residing in mental health facilities
- Elders residing in foster homes
- Adults with disabilities residing in foster homes
- Other (please specify):

Adult Abuse Registry

* 5. Who is the best person(s) in your state to contact to obtain information on your state's Adult Abuse Registry (whether the Registry active or disbanded)?

Name of Contact Person #1:

Agency:

Email:

Phone:

Name of Contact Person #2:

Agency:

Email:

Phone:

Appendix 2: Survey 2

State Adult Abuse Registries

Introduction

Thank you for participating in this survey. The survey is a project of the NAPSA Abuse Registry Ad Hoc Committee, formed as a result of requests from multiple states on the need to provide technical assistance on the implementation and impact of abuse registries. The committee's charge is to research state abuse registries and produce a technical assistance paper that will assist states in considering, creating, and/or modifying an adult abuse registry.

In this survey we seek information about your state's adult abuse registry or system(s) that together perform the functions of an adult abuse registry. Our operational definition of such a registry is as follows:

An adult abuse registry is a system for maintaining the identity of individuals who are found, as a result of an Adult Protective Services (APS) investigation, to have abused, neglected or exploited seniors or adults (18 and older) with disabilities. The purpose of such a registry is to make this information available to individuals, agencies or employers authorized to receive such information.

Modified from definition in: Duke, Joy. "Summary of Findings of a National Survey on Adult Abuse Central Registries." Abuse and Neglect of Vulnerable Adult Populations, edited by Otto, Joanne Mariatt, Civic Research Institute, 2005, pp. 1-7 to 1-9.

We will ask you for a little background on your state's registry; lifespan of listings; oversight; resource requirements; notification and access; and interstate coordination. Please provide as complete information as possible. All questions are optional. If your agency does not have the answer to a question, then just provide the best explanation you can and the NAPSA team will follow up at a later date to see what more we can learn.

If you have any reports, process descriptions, statistics or other documentation on your registry readily available, we would appreciate your sharing them by emailing them to the contact person mentioned below. If there is another source of relevant information, please refer us to that source.

The technical assistance paper produced from the survey results will provide a general overview of registry trends across states, as well as state-specific information. The draft will be shared with states participating in the survey for input before publication. The paper will be available to states participating in the survey and subsequently released on NAPSA's website. The results may be presented at a future NAPSA meeting or other professional settings.

If you have any questions about the survey or the Ad Hoc Committee, please contact Mariah Freak by email at mariah.freak@state.ma.us or by telephone at (617) 727-6465 ext. 223.

Please help us by submitting your response by 1/31/2017.

This survey will close after that date.

* 1. Contact Information

Name	<input type="text"/>
Organization	<input type="text"/>
State/Territory	<input type="text"/>
Email Address	<input type="text"/>
Phone Number	<input type="text"/>

State Adult Abuse Registries

Background

2. In what year did your state's registry begin operating?

3. Please identify the statutory authority for the registry. If the authority does not come from statute, please identify the source of authority (regulation, administrative rule, other?). Please provide a webpage address to the authority, if published online.

4. What is the officially stated purpose of the registry in your state? Please cite the source of the statement of purpose and provide a webpage address for the source, if published online.

5. Approximately how many individual perpetrators are named on the registry at this time?

Oversight

6. How long does an individual perpetrator's name remain on the registry?

7. Can a name be removed from the registry before this normal time frame?

Yes

No

8. Is a formal appeal available at one or more points in the process of adding or removing a name from the registry?

Yes

No

Resource Requirements

9. How many full time staff are dedicated to registry operations?

10. Please list relevant duties of each full time staff member:

Staff Member 1

Staff Member 2

Staff Member 3

Staff Member 4

Staff Member 5

Staff Member 6

Staff Member 7

Staff Member 8

Staff Member 9

Staff Member 10

11. What type of information system houses registry information?

- Specialized database application built to operate the registry
- A database made in Microsoft Access or similar software
- Spreadsheet
- Paper files
- Other (please specify)

12. What is the source of funding for the registry?

13. Is there dedicated funding for the registry?

- Yes
- No

14. What is the 2016 operating budget for the registry? Please specify beginning and end dates for the budget year.

Budget Amount	<input type="text"/>
Budget Year Begin Date	<input type="text"/>
Budget Year End Date	<input type="text"/>

State Adult Abuse Registries

Notification and Access

15. Which parties are notified when an individual perpetrator's name is placed on the registry?

Check all that apply

- Individual placed on registry
- Individual's employer
- Victim
- Victim's guardian/conservator
- Medicaid Fraud Control Unit
- Licensing or Certification Agency
- Other (please specify)

16. If a name is removed from the registry, who is notified?

Check all that apply

- Individual placed on registry
- Individual's employer
- Victim
- Victim's guardian/conservator
- Medicaid Fraud Control Unit
- Licensing or Certification Agency
- Other (please specify)

17. Which entities or parties have access to the registry?

Check all that apply

- APS only
- Employers
- Law enforcement
- Other APS jurisdictions
- Public
- Other (please specify)

18. Which types of entities or parties are **required** to check the registry for certain uses?

Check all that apply

- Certain categories of employers
- Law enforcement
- Other APS jurisdictions
- Other (please specify)

19. Are fees required for access?

- No
- Yes - What are the fees?

State Adult Abuse Registries

State Coordination

20. Does your state participate in interstate registry listings, data sharing, or other coordination or agreements with other states?

- No
- Yes - Please identify the states.

Appendix 3: Interview questions

NAPSA Survey of State Adult Abuse Registries Part II- Interview Tool 1-26-17

Part A: Background

1. Your state's survey response told us when your state's registry began operating, which was (year).
 - a. Can you tell me what drove the creation of the registry in your state? Were there certain historical developments that led to its creation?

For example:

 - *Specific case or incident that triggered or contributed to formation of the registry*
 - *Certain stakeholders - legislators, advocates, media outlets - who played a major role*
 - b. Is there anything else that might be helpful to know about the registry's origins and the historical developments that have influenced how it operates today?
2. Your survey response gave an approximate number of perpetrators who are on the registry, which was (number).
 - a. Has this approximate number changed over the years? (Please explain)
 - b. What seems to be the current trend in the number of perpetrators on the registry -- stable, increasing, decreasing?
3. What is the impact of being on the registry to the perpetrators placed there?

For example:

 - *Statutory bar to employment vs. discretionary bar to employment (employer's decision)*
 - *Inability to be a provider of adult foster care or in-home services*

Part B: Oversight

1. Your state's survey response indicated that (agency name) is the entity that operates the registry in your state and that oversight is provided by (administrative body and/or senior official).

(If applicable: You also mentioned other agencies that assist in performing the registry function. These agencies include: (agency names).
2. Are there any additional agencies or entities that the registry coordinates with in one way or another?
3. a. What is the relationship of these various agencies to each other and to the registry? How do they coordinate?

b. Is written documentation available to describe the agency roles and responsibilities you have just discussed?

Part C: Lifespan of listings

1. Your state's survey response indicated that ... (recap responses)

Is there any other information that other states might find helpful to know about the lifespan of registry listings?

Part D: Resource requirements

1. Your state's survey response provided information on (number) full time staff dedicated to registry operation.
 - a. Are there other staff necessary to support the registry -- perhaps part time, or individuals not dedicated to the registry, but who play an important supporting role?

For example:

- *Types of support: Legal, IT, data, policy*
- *Agency to which staff belong*
- *Level of expertise, professional skill*

- b. Is there any written documentation available to describe registry staffing that could be provided?

2. Your survey response indicated that the information system that houses the registry is (say what it is).
 - a. Does this information system interact with other registries or certification processes?
 - b. Can you make available a high-level outline of the information items included in the registry? (to provide after the interview)

Part E: Applicability

1. To what victim populations does the registry apply?

Clarify:

- elders-- define age group:
- elders with a disability-- define age group:
- non-elder adults with a disability-- define age group:
- adults with mental health conditions-- define age group:
- any other population group?** -- specify:

2. To what types of perpetrators does the registry apply?

Clarify:

- staff paid by an institution/agency
- staff paid by the victim
- volunteers
- unpaid family members
- paid family members

- professionals (such as bankers, doctors, attorneys)
- guardians/Conservators
- other -- specify:

3. To what types of abuse does the registry apply?

Clarify:

- physical
- sexual
- emotional
- financial abuse or exploitation
- neglect
- other -- specify:

4. Are there certain levels of severity of abuse that are included while others are not?

- o If so, what are they?

5. What level of substantiation of findings does the registry include?

Clarify:

- All substantiated cases
- Substantiated cases that meet an additional threshold of some sort – please explain:
- Other - specify:

Are there any additional factors we have not discussed which affect whether a certain act is covered or not covered by the registry?

6. Can you direct us to the source and language that defines the programs, services and/or settings in which the abuse covered by the registry occurred? Any documentation would be helpful. (to provide after the interview)

Part F: Registry entries

1. a. Please describe the basic process of how an individual comes to be placed on the registry. After an investigation has concluded with a clear finding, what happens next, and next after that, and so on, up to the actual placement of the perpetrator's name on the registry?

Identify:

- *Investigation specifics:*
 - *Abuse type (or neglect)*
 - *Victim type (elder, adult with a disability, etc.)*
 - *Location (private home, facility, etc.)*
- *Are there different levels of review? Who (position title and agency) makes the decision at each level of review?*
- *If necessary, distinguish between the review of the investigation process vs. the review of the registry placement process.*

- *Each step in the process*
- *The agency and type of staff member who takes each step.*
- *Each level of review or decision*

b. Is written documentation available that details the steps you have just discussed?

2. I would like to know about the overall length of the process you just outlined.

a. What is the average length of time after an investigation conclusion to the placement of a perpetrator's name on the registry? (number of days)

b. Is there a minimum or a maximum timeframe within which the process must be completed? (number of days)

3. a. Does the information system interact with other registries or certification processes? If yes, please explain.

b. Have you written documentation that discusses this that could be shared?

Part G: Notification and Access

1. Your state's survey response identified the parties who are notified when an individual's name is placed on the registry. These include: (refer to list)

a. Would you please describe the process involved in notifying these parties?

b. Is there written documentation that details this process, that you could share?

2. In your state's survey response, you told us that a person's name can be removed from the registry (other than for having reached the maximum timeframe for a name to remain on the registry).

Please tell me about the circumstances that may lead to removal of a person's name from the registry.

3. Your state's survey response listed the parties with access to the registry. These include (summarize response).

With respect to the employers who have access to the registry, I would like to clarify... are there specific types of employers have access? If so, what are those types? Is there a distinction as to where the employer is in its hiring process (e.g., reviewing resumes versus planning to make an offer)?

4. I would like you tell me more about the **required** uses of the registry -- who must use it, and for what?

5. Are there other potential uses of the registry that are permitted, but not required?

6. a. What process is necessary to access the registry?

b. Is there written documentation on this process that you could share?

Part H: Due Process

1. Your state's survey response indicated whether a formal appeal is available at any point on the process of adding or removing a person from the registry. I'd like to understand which parties can appeal during which stages in the process. I'm going to ask you about several process stages and parties in the process who may have some appeal. If I miss any step or party in the process in your state, let me know.

	Do any of these parties have an ability to appeal this step in the process?				
Stage	Perpetrator?	Victim?	Third Party? -- identify:	Other? -- identify:	No appeal at this stage
Determination to place on registry					
Release of information to third parties					
Removal from the registry					
Other -- explain:					
Other -- explain:					

2. a. What is the process involved in each of these types of appeals?

Obtain descriptions of each type of appeal at a specific stage by a specific party, as may be applicable to that state.

b. Is there written documentation on this process that you could share?

3. For the levels of appeal that have been identified, when an appeal has been unsuccessful, does the party appealing have a right to further appeal? If so, please explain.

Get an answer on each type of appeal/person making the appeal.

4. Is there information available on the average success rate of appeals?

Gather the following information, if it has not been already obtained. You may request the interviewee to research the information post-interview.

Level of appeal (check if applicable, then provide info at right)	Number of appeals in your state	Percentage of decisions that are overturned on appeal	Time frame described	Not calculated
<input type="checkbox"/> Determination to place on registry		%		<input type="checkbox"/>
<input type="checkbox"/> Release of information to third parties		%		<input type="checkbox"/>
<input type="checkbox"/> Removal from registry		%		<input type="checkbox"/>
<input type="checkbox"/> Other - explain:		%		<input type="checkbox"/>

5. My last question regarding due process has to do with victim's rights. You've given us some information about this (assuming they did in the previous questions in this section).

Can you elaborate a little on what rights the victim has relative to the placement, maintenance, sharing of information, removal, or any other aspects of the registry?

If the state does not have any formal provisions for victims' rights, ask how the state provides a means of protecting victim's rights.

Part I: Pros and Cons

We are near the end of the interview. Now I have some high level questions, concerning beneficial as well as negative or challenging aspects of the registry that have been felt in your state.

1. First, overall, what benefits has the registry had for your state?
2. What problems or challenges have been associated with the registry?
3. Operationally, what has worked well about the registry?
4. What has not worked as well as expected?
5. Are any changes to the registry anticipated in the future? (If so, please explain.)

Part J: State Coordination

1. (If applicable) In your state's survey response, you indicated that your state cooperates with other states in inter-state registry listings, data sharing, or other types of coordination. States that were mentioned included (name states).
 - a. Can you please tell me more about these cooperative agreements?

Tease out the following areas of cooperation:

- Inter-state listings (a shared registry or dual listings)*
- Interstate staff registry access (a user in one state is able to access the registry in another state)*
- Data sharing*
- Other cooperation*

b. Is there written documentation on this process that you could share?

Part K: Additional Information

Well, that is the end of my questions. Would you like to add to any of your responses or offer any other information regarding your state's registry that may be important for fellow states to know about?

Any follow up actions? e.g. to research and provide items later.

Appendix 4: State Legal Citations and Websites

Arizona

Legal citations: Ariz. Rev. Stat. Ann. §§ 13-3623; 46-451; 46-457 through 459; Ariz. Admin. Code § 6-8-101 through 210.

Arizona APS Registry:

<https://des.az.gov/services/aging-and-adult/arizona-adult-protective-services-aps>

Colorado

Legal citations: Colo. Rev. Stat. §§ 26.3.1-101 through 111.

Delaware

Legal citations: Del. Code Ann. tit. 11, § 8564; tit. 29, § 7972; tit. 31, § 3901-3913; 3101 Del. Admin. Code §§ 1.0-7.0.

Delaware Adult Abuse Registry - <http://dhss.delaware.gov/dhss/dlcrp/default.aspx>

Hawaii

Legal citations: Haw. Rev. Stat. §§ 321-15.2; 321-481; 346-221 through 249; Haw. Code R. §§ 17-1401.1-1 through 1-10.

Criminal History Record and Background Check Information –

<https://medquest.hawaii.gov/en/plans-providers/criminal-history-background-check.html>

Illinois

Legal citations: 320 Ill. Comp. Stat. 20/1 through 20/15.5; 320 Ill. Comp. Stat. 42/1 through 42/99.

Iowa

Legal citations: Iowa Code §§ 235B.1-20; 235E.1-7; 135C.33); Iowa Admin. Code r. 441-119.1 through 119.5; 441-176.1 through 176.17.

Kansas

Legal citations: Kan. Stat. Ann. §§ 39-1430; 39-1434; 39-2009; 65-6205.

Kansas Adult Abuse, Neglect and Exploitation Central Registry -

<http://www.dcf.ks.gov/services/pps/Pages/APS/RelatedAPSInfo.aspx>

Kentucky

Legal citations: Ky. Rev. Stat. Ann §§ 209.005-209.990.

Kentucky Adult Caregiver Misconduct Registry -

<https://prdweb.chfs.ky.gov/KACMR/Home.aspx>

Maine

Legal citations: Me. Stat. tit. 22, § 1812-G; tit. 22; §§ 3470-3493; tit. 34-B, § 5604-A; 14-197-12; Me. Code R. §§ 6.01-6.05.

Maine Background Check Center - <https://backgroundcheck.maine.gov/DHHS/MBC/>

Minnesota

Legal citations: Minn. Stat. §§ 245C.01-245C.34; 256.021; 626.557; 626.5572.

Missouri

Legal citations: Mo. Rev. Stat. §§ 192.2400;192.2475; 192.2490; 197.400; 197.500; 198.070; 208.912; 208.915; 210.900; 565.186; 660.260; 660.261; 660.300; 660.305;
Mo. Code Regs. Ann. tit. 19, §§ 30-80.010 through 30-80.040.

Missouri Employee Disqualification List - <http://health.mo.gov/safety/edl/> , also accessible through the **Family Care Safety Registry** - <http://health.mo.gov/safety/fcsr/index.php>

Nebraska

Legal citations: Neb. Rev. Stat. §§ 28-350 through 28-387.

Nebraska Child/Adult Abuse and Neglect Central Registry - http://dhhs.ne.gov/children_family_services/Pages/nea_cr.aspx

New Hampshire

Legal citations: N.H. Rev. Stat. Ann. §§ 161F:42 through 161F:57.

New Hampshire State Registry - <https://www.dhhs.nh.gov/dcbcs/beas/registry.htm>

New Jersey

Legal citations: N.J. Stat. Ann. §§ 52:27D-407; 52:27D-421.

New Jersey Central Registry of Offenders against Individuals with Developmental Disabilities - http://www.state.nj.us/humanservices/staff/opia/central_registry.html

Ohio

Legal citations: Ohio Rev. Code Ann. §§ 5123.50 through 5123.53;

Ohio Admin. Code rule nos. 5123:2-17-03; 5101.71.

Ohio Department of Developmental Disabilities Online Abuser Registry Verification - https://its.prodapps.dodd.ohio.gov/ABR_Default.aspx

Oklahoma

Legal citations: Okla. Stat. 56-1025.1 through 1025.4; Okla. Admin. Code §§ 340:100-3-39.

Oklahoma Community Services Worker Registry - <https://cswrpublic.okdhs.org/cswrpublic/MakeInquiry.aspx>

Tennessee

Legal citations: Tenn. Code Ann. §§ 68-11-1001 through 1006; 71-6-101.

Tennessee Abuse Registry - <https://apps.health.tn.gov/AbuseRegistry/default.aspx>

Texas

Legal citations: Texas Human Resources Code Ann. §§ 48.401 – 48.408; Texas Health and Safety Code Ann. § 253; 40 Tex. Admin. Code §§ 711.1401 through 711.1427; 40 Tex. Admin. Code. §93.

Texas Employee Misconduct Registry

<https://hhs.texas.gov/doing-business-hhs/licensing-credentialing-regulation/employee-misconduct-registry-emr>

EMR Public Information Search:

<https://emr.dads.state.tx.us/DadsEMRWeb/adHocInquiresSearch.jsp>

Employability Status Check: <https://emr.dads.state.tx.us/DadsEMRWeb/emrRegistrySearch.jsp>

Utah

Legal citations: Utah Code Ann. §§ 62A-2-120; 62A-3-301 through 321.62A-3-301.

Washington

Legal citations: Wash. Rev. Code §§74.34; 74.39A.056; Wash. Admin. Code §§ 388-71-0105 through 388-71-01281.

Washington Background Check Central Unit - <https://www.dshs.wa.gov/fsa/background-check-central-unit/background-check-central-unit>

West Virginia

Legal citations: W. Va. Code §§ 9-6-1 through 9-6-16.

West Virginia Protective Services Background Check -

<http://www.dhhr.wv.gov/bcf/Providers/Pages/Request-an-APS-or-CPS-Background-Check.aspx>