

Progress on Implementation of The Adult Abuse Reporting Law

**A Report to the Governor, Temporary President of the Senate
and Speaker of the Assembly
in Satisfaction of the Requirements of
Chapter 536 of the Laws of 2005,
as Amended by Chapter 356 of the Laws of 2006**

**New York State
Office of Mental Retardation and Developmental Disabilities
and
New York State
Office of Children and Family Services**

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PROGRESS ON IMPLEMENTATION OF THE ADULT ABUSE REPORTING LAW

I. INTRODUCTION

The Office of Mental Retardation and Developmental Disabilities (OMRDD) and the Office of Children and Family Services (OCFS) submit this annual report on the implementation of Chapter 536 of the Laws of 2005, as amended by Chapter 356 of the Laws of 2006 (hereinafter referred to as the Adult Abuse Reporting Law). The report is submitted pursuant to the requirements of paragraph 16.19(d)(3) of the Mental Hygiene Law (MHL), which was added by the above-referenced chapter laws. Section 16.19(d)(3) states:

“The commissioner [of OMRDD] and the commissioner of children and family services shall submit a report on the physical, sexual, or emotional abuse, or active, passive or self neglect of adults with mental retardation or other developmental disabilities to the governor, temporary president of the senate and speaker of the assembly by January first, two thousand seven, and annually thereafter. In consultation with the commission on quality of care and advocacy for persons with disabilities, the commissioner and the commissioner of children and family services shall include in such report a description of systemic issues; a summary of strategies used for intervening in such cases; an evaluation of the success of such strategies; an evaluation of the implementation of the memorandum of understanding developed pursuant to paragraph two of this subdivision and the specific status of developmental disabilities services offices and local departments of social services, with respect to entering into an agreement as required by paragraph two of this subdivision; and any recommendations the commissioner believes are necessary to protect adults from abuse or mistreatment. The report shall also include the number of reports and a summary of common situations and trends contained in such reports which were:

- a. made to the commissioner pursuant to paragraph one of this subdivision;
- b. not referred to adult protective services, but in response to which the commissioner intervened; and the outcome of such intervention; and
- c. referred to adult protective services pursuant to paragraph one of this subdivision and the outcome of such referral.”

Chapter 356 of the Laws of 2006 was signed into law on July 26, 2006. This chapter amendment took effect immediately upon that date, and was deemed to have been in full force and effect on and after February 12, 2006, which was the effective date of the initial legislation, Chapter 536 of the Laws of 2005. The two chapters, combined, can be found in Appendix 1.

II. BACKGROUND

The Adult Abuse Reporting Law changed the scope of responsibility of Protective Services for Adults (PSA) units by giving OMRDD primary responsibility for protection of adults who are or had been receiving services through OMRDD or one of its service providers. While OMRDD may have a need for the assistance of PSA to fulfill this responsibility, this law has shifted the responsibility for protection of vulnerable adults receiving services from OMRDD or through OMRDD providers to OMRDD, or its providers.

Additional background information may be found in the previous annual reports (2006-2008), which are available upon request.

III. IMPLEMENTATION

A. Joint Efforts

Memorandum of Understanding (MOUs) Signed:

All MOUs required under the law have been signed.

Training:

A collaborative regional training was held in September, 2009 between New York City's Human Resources Administration PSA staff and the Developmental Disability Services Office (DDSO) representatives from all five boroughs. Eligibility requirements for both PSA and OMRDD services were discussed. Information was distributed providing each agency with the names, addresses and telephone numbers of the borough-specific contacts in both PSA borough offices and the DDSOs, to facilitate appropriate communications between agencies.

NYS OCFS and NYS OMRDD representatives have met to discuss next steps for further implementation of the Adult Abuse Reporting Law. Both agencies agree that additional training must be made available for DDSO providers, DDSO staff and local social services district PSA unit staff. OCFS and OMRDD are planning to provide such training at several regional locations throughout the State in May, 2010, as well as a training to be held in a videoconference format. Both OCFS and OMRDD will participate in providing this training. It is anticipated that this training will be followed by a subsequent phase of training within each DDSO's geographic area including DDSO staff, local providers and the local PSA units.

Areas for Improvement/Reporting on Selected Performance Measures:

OCFS and OMRDD have had on-going discussions regarding various provisions of the law and the components of the MOUs which implement the law. It is agreed that, following the above-described phases of training on the requirements of the MOU, and based on reported experiences in implementing the MOUs, the agencies will jointly consider targeted areas for improvement and strategies for achieving such improvements.

The agencies will also consider appropriate reporting on performance measures relating to components of the MOU, especially those relating to areas needing improvement.

B. OMRDD Implementation Efforts:

Over the past three years, OMRDD has made significant progress in working toward implementation of the law. As noted below, those efforts included developing an MOU, making applicable regulatory changes, and requiring our local DDSO offices to designate a liaison to work with each local PSA.

One important provision of the law required OMRDD and OCFS to develop a memorandum of understanding (MOU) that would be entered into between each DDSO and each local Department of Social Services (LDSS). Building on the foundation of the 1993 Model Agreement, OMRDD developed a model MOU which incorporated the requirements of the new abuse reporting law and entered into negotiations with OCFS. A model MOU was approved by both OCFS and OMRDD in early 2007 and distributed to all agencies' local offices for execution. All of the required MOUs have been signed.

For many years, OMRDD regulations (14 NYCRR Part 624) have required state-operated programs and voluntary providers to report allegations of abuse and to follow up with investigations and other necessary corrective/protective actions. While primarily aimed at allegations of abuse occurring within facilities or programs certified or funded by OMRDD, specific regulatory language and OMRDD policy statements contained in the *Part 624 Handbook* (a guidance document issued by OMRDD) require providers to make reports and take appropriate actions if abuse was suspected, even when consumers were not receiving OMRDD services at the time the alleged abuse occurred. The *Handbook* was updated in 2009, and information about the Adult Abuse Reporting Law was included as part of the revisions. These revisions will further increase awareness of the new regulations among OMRDD providers. The changes to the law are identified in Appendix 8 titled "Abuse Reporting Law" and the MOU follows as Appendix 9. The revised *Handbook* has not yet been issued, but will be shortly.

OMRDD is in the process of implementing a statewide Incident Reporting Management System (IRMA) for DDSO and voluntary provider use. It is anticipated that full implementation of this system will enable OMRDD to efficiently collect and analyze information on our entire system's performance on serious incidents and abuse and neglect and to identify trends and aid in the statewide quality management of incidents. OMRDD believes that use of incident data can guide development of targeted awareness campaigns.

The vast majority of reports of abuse allegations which are received by OMRDD concern situations or events that occur while consumers are receiving services operated, certified or funded by OMRDD. The new chapter laws do not change the pre-existing incident management processes concerning these types of abuse allegations and the issues identified and discussed in this report do not concern these situations, since the processes

do not generally involve PSA but rather OMRDD service providers. In the unusual event that PSA involvement is needed, a referral to PSA is made.

One specific provision of the law requires that abuse allegations be reported to the New York State Commission on Quality of Care and Advocacy for People with Disabilities (CQCAPD) within 48 hours. OMRDD regulations (14 NYCRR 624.5(b)(4)) had required that reports of abuse allegations be sent by both state-operated and voluntary provider agencies to CQCAPD within 72 hours. In order to ensure adherence to the new statutory timeframe, OMRDD promulgated new regulations, effective February 8, 2006, which reduced the required timeframe for reporting abuse allegations to CQCAPD from 72 hours to 48 hours. CQCAPD screens all allegations of abuse it receives and conducts secondary investigations on those which they determine are the most serious.

In order to prepare this report, each DDSO was requested to assemble statistical information and recommendations concerning abuse allegations in situations when consumers were not receiving services certified or funded by OMRDD. The DDSOs were able to provide information and data that represent those abuse allegation reports received in 2009. Sample reports compiled from the DDSO data are contained in Appendix 2 of this report.

In order to develop or strengthen collaborative relationships with local PSA units, OMRDD directed each of its DDSOs to designate a liaison with each PSA to eliminate or greatly reduce any confusion that might exist regarding each agency's respective contacts for coordinating a response to an allegation of abuse.

Additionally, representatives from OMRDD's DDSOs have collaborated with OCFS staff to hold various regional meetings with PSA staff. Meetings in the New York City region were held in September 2009, and staff in all regions statewide have now participated. Additional training is planned for OMRDD and voluntary provider staff as well as local district PSA staff as part of the ongoing series of Provider Trainings. The next Provider Training sessions are tentatively scheduled for May of 2010 and both OMRDD and OCFS staff will participate as trainers.

C. OCFS Implementation Efforts:

Earlier implementation efforts were detailed in the 2006, 2007 and 2008 reports submitted to the Governor and New York State legislative leaders. These earlier reports are available upon request.

In 2009, OCFS staff reviewed the MOU requirements with PSA Supervisors at regional meetings and responded to questions from local district PSA staff throughout the timeframe of this report. It appears that some PSA units are investigating referrals which should be redirected to the DDSOs. From regional meeting discussions, two issues were raised repeatedly : referrals made to PSA by some voluntary agency staff which under

the law and the MOU needed to be investigated by OMRDD, and the need for appropriate (supportive) housing for developmentally disabled clients who are not functioning successfully in the community.

IV. DESCRIPTION OF SYSTEMIC ISSUES

Both OMRDD and PSA have critical roles in addressing allegations of abuse or neglect concerning adults with developmental disabilities. Each system has certain capabilities and provides unique services that are essential to effectively address specific situations.

A. OMRDD SYSTEMIC ISSUES:

OMRDD and its providers offer a wide array of services that can support individuals and their families, such as habilitation services, service coordination, and respite. The provision of supports to individuals and families can directly remedy many difficulties that underlie some forms of abuse and help families to stay together. Frequently, abuse and neglect are rooted in family difficulties and programs that can be addressed through the provision of supports, including reducing family stress, improving parenting skills, and helping families to appropriately address challenging behaviors.

In addition, OMRDD provides an extensive network of residential and respite services that may be accessed if out-of-home placement is needed for an adult consumer. Strategies used by PSA to provide emergency housing to individuals without developmental disabilities, such as placement in hotels without supports, are generally not suitable for individuals with special needs including adults with developmental disabilities, who often require oversight and/or assistance in order to assure their safety and well-being. Special supervision, nursing, personal care or supports by staff who understand the needs of individuals with cognitive and/or other limitations are often not available from PSA to provide adequate supports to adults with a developmental disability in an emergency situation. Consequently, the services and supports necessary to facilitate resolution of an emergency situation are often available only from a DDSO or voluntary provider in the OMRDD system.

While OMRDD services alone may be sufficient to address some situations, PSA units have specific legal powers and remedies granted in the Social Services Law (SSL) that may be necessary to investigate and effectively intervene in other situations. This authority may especially be needed in situations that involve an imminent risk of death or serious physical injury to a person with a developmental disability, when the consumer lacks capacity to understand the risk and is refusing services, or when access to the consumer is blocked.

The statutory powers and remedies available to PSA include the ability to obtain an order to gain access to the alleged abused adult in accordance with Section 473-c SSL. An order to gain access might be necessary if access is refused by the individual or others living with the consumer. In addition, PSA units have the statutory ability to petition for short-term involuntary protective services orders (STIPSOs) pursuant to Section 473-c SSL. An order for STIPSOs can be used in situations when it is necessary to remove an adult from a dangerous situation when there is an imminent risk of death or serious physical injury. Occasionally, guardianship may be necessary for effective intervention, and the local social services commissioner might be called upon to work with the DDSO and the court system to facilitate the appropriate guardianship process.

The local social services commissioner may also act as the representative payee or protective payee for receipt of the consumer's Social Security checks or other income to ensure that the monies are spent appropriately on behalf of the consumer under 18 (18 NYCRR 457.1(d)(9)). Moreover, PSA units are authorized to provide certain protective services that OMRDD does not generally provide, such as homemaker/housekeeping services, food services, financial management services, and counseling with respect to decision making for other family members (18 NYCRR 457.1(d)).

The new statute requires OMRDD to intervene when it receives a report that any adult thought to have mental retardation or another developmental disability has been subjected to abuse or neglect, and OMRDD has reason to believe that such adult is known by the commissioner to have received services from providers duly authorized by the commissioner and has been subject to such abuse and neglect. The new statute did not provide any funding for OMRDD to upgrade its information management systems to enable the prompt identification of such adults nor was additional funding given for added staff to investigate abuse allegations on a 24 hour/7 day a week basis.

In the past, certain DDSOs and PSA units have sometimes worked in a coordinated fashion to successfully resolve abuse allegations related to events or situations involving consumers when they are not receiving services operated or funded by OMRDD. Other times, cooperation and coordination between the two systems has been less than optimal.

Systemic Issues Reported by DDSOs

Need to enhance communication and coordination between the DDSOs and the PSA units. This includes:

- Establishing a central point of contact, and ensuring that both the DDSOs and PSA units have the correct contact information in order to facilitate a timely response to abuse allegations;
- Clarifying as necessary PSA eligibility criteria, and establishing a consistent approach to these criteria in the various counties;
- The prompt and consistent notification of the DDSO when an allegation of abuse is received, and on the status of open investigations;

- Having regular communication between the DDSOs and their provider agencies and the PSA unit to discuss common cases, issues and available resources. Some DDSOs report a close working relationship with PSA, while others report that the relationships with PSA units in some counties need to be improved in order to better serve clients;
- Working together with PSA units to determine whether and how the separate regulatory definitions of abuse or neglect stated in 14 NYCRR 624.4(c) for DDSOs and at 18 NYCRR 457 for PSA units creates issues for coordination of cases and how these issues can be addressed. Several DDSOs indicated that they have held meetings with local PSA units for this purpose. Both the Capital District DDSO and the Long Island DDSO have reported that monthly community joint services meetings occur with attendance and participation by the local district PSA representatives.
- Working together with PSA units to identify and address any issues or disagreements related to an individual's capacity to make decisions on his or her own behalf. This becomes a significant concern when the individual refuses services and there is a professional determination that such services are needed for the individual's protection.

Sometimes, attempts to investigate or intervene regarding abuse allegations by OMRDD or voluntary provider agencies are stymied because an individual or a family refuses to cooperate and/or refuses services that are offered. In occasional cases, when abuse is suspected, individuals or families change service provider agencies or withdraw from OMRDD services altogether and sever contact with OMRDD or the provider agency. It can be extremely challenging for either DDSOs or PSA units to effectively investigate or intervene in these cases. Unfortunately, the rare instances of overt, intentional abuse are often the most difficult for agencies to investigate and provide effective interventions. In such cases, OMRDD will request PSA to obtain the necessary court orders to gain access or seek a short-term intervention to address a situation involving imminent risk to a person who lacks capacity to make decisions. In some cases, if harm is imminent, the intervention of law enforcement officers may be sought.

B. OCFS SYSTEMIC ISSUES:

THE MISSION OF PSA

Protective Services for Adults (PSA) is a system of services aimed at assisting individuals to continue to live safely in the community for as long as possible rather than in institutions. Services are designed to prevent or remedy the neglect, exploitation or abuse of adults by strengthening, to the extent possible, their capacity to function and their ability to be self-directing.

Local social services districts receive over 30,000 PSA referrals annually. It is estimated that about 60% of PSA clients are 60 years of age or over, and that about 40% are between 18 and 59 years of age.

PSA clients are a diverse population, including: the frail elderly; the homeless; adults with mental illness, mental retardation or other developmental disability (or are dually diagnosed with both mental illness and MR/DD); adults with drug and/or alcohol addiction; adults with traumatic brain injury or other physical disability.

PSA clients may be victims of physical abuse, sexual abuse, emotional abuse, active, passive or self-neglect, financial exploitation, or may be in some other dangerous situation.

PSA's GUIDING PRINCIPLES

Right to Self-Determination

A competent adult has the right to exercise free choice in making decisions, even if some of those decisions seem eccentric. However, if the client is at risk of abuse, neglect or exploitation, PSA must investigate to determine whether the risk is the result of free choice of a competent individual or a symptom of the client's incapacity.

Least restrictive alternative

Interventions are limited to specific actions required to address the endangering conditions, in the client's home when possible.

LEGAL AUTHORITY FOR PROTECTIVE SERVICES FOR ADULTS

There are two traditional legal principles, based in the common law, under which intervention may be pursued: the police power of the State, which gives the State authority to regulate activities that endanger the health and safety of other persons in society; and the theory of *parens patriae*, which gives the State authority to act in a parental capacity for persons who cannot care for themselves or who are dangerous to themselves. These two principles provide a common law basis for the provision of PSA.

In addition to these common law underpinnings, the Social Services Law (SSL) provides explicit statutory authority for PSA. Local social services districts are mandated by Section 473 of the SSL to provide Protective Services for Adults. Services provided under PSA include:

- receiving and investigating reports of seriously impaired individuals who may be in need of protection; arranging for medical and psychiatric services;
- arranging for commitment, guardianship, or other protective placements;
- cooperating and planning with the courts as necessary on behalf of individuals with serious mental impairments; and
- other specific protective services as set forth in the Child and Family Services Plan..

OCFS regulations at 18 NYCRR 457.6 further state "when the district believes that there is a serious threat to an adult's well-being and that the adult is incapable of making decisions on his or her own behalf because of mental impairments, the social services official has a responsibility to pursue appropriate legal intervention..."

PSA CLIENT CHARACTERISTICS

OCFS regulations define PSA eligibility as follows:

Protective Services for Adults are provided to individuals 18 years of age and older who, because of mental or physical impairments:

- 1) are unable to meet their essential needs for food, shelter, clothing or medical care, secure entitlements due them, or protect themselves from physical or mental injury, neglect, maltreatment or financial exploitation;
- 2) are in need of protection from actual or threatened harm, neglect, financial exploitation, or hazardous conditions caused by the action or inaction of either themselves or other individuals; and
- 3) have no one available who is willing and able to assist them responsibly.

See 18 NYCRR 457.1(c).

This means that any person 18 years or older who meets all of these client characteristics is eligible for PSA.

However, the third client characteristic described in 18 NYCRR 457.1(c) is most subject to varying interpretations. There are wide differences in the commitment and capacity of family members and other involved individuals to meet the difficult demands of caring for dependent adults. This issue is further complicated by the fact that most relatives are not legally responsible for the care of their impaired adult family members. Furthermore, while other agencies have responsibilities for meeting the needs of dependent adults, the responsibilities of these agencies often have been unclear. These ambiguities have, at times, compounded the problem of determining an individual's eligibility for PSA. In order to clarify the precise intent of this client characteristic, OCFS has made several attempts over the years to facilitate a thorough understanding of the responsibilities of relatives and other service delivery systems. This particular characteristic is discussed in various administrative directives issued by OCFS to the local social services districts and will be incorporated in all future trainings with DDSOs.

DEFINITIONS OF ADULT ABUSE, NEGLECT AND EXPLOITATION

Section 2 of Chapter 395 of the Laws of 1995, amended SSL § 473(1) to include in the statutory definition of the PSA eligibility criteria the specific types of situations which fall within the scope of PSA. These situations are very wide-ranging and include physical abuse; sexual abuse; emotional abuse; active, passive or self neglect; and financial

exploitation. These terms are defined in SSL § 473(6), and in Section 457.1(b) of the OCFS regulations, which are found in Title 18 of NYCRR. While these definitions clarified the scope of PSA, they did not change the basic principles of PSA regarding the client's right to self determination and the authority and responsibility of PSA to pursue the appropriate legal interventions on behalf of impaired adults who are at risk of harm and unable to make decisions on their own behalf. Nor did they change the statutory definition of a PSA client. These definitions also are consistent with definitions used by the American Association of Retired Persons and the National Center on Elder Abuse. OCFS has directed the local social services districts to include these definitions in all public education efforts with service providers such as DDSOs to maximize community understanding of the broad types of situations that fall under the jurisdiction of PSA.

SERVING INVOLUNTARY CLIENTS

Although many persons in need of PSA accept services voluntarily, there are a number of involuntary clients who resist the provision of essential services. While PSA staff must respect an individual's right to self-determination, they also have the legal responsibility to provide necessary services to persons who require them and, under the two recent chapter laws, to assist OMRDD in that process where the individuals are OMRDD consumers. Authority to protect the life and property of unwilling clients is established in Social Services Law, Mental Hygiene Law, the Family Court Act, Public Health Law and the Surrogate's Court Procedure Act as well as in case law.

Since 1976, when information on the PSA program was first provided by the former state Department of Social Services, local social services districts have been reminded of their dual responsibility - protection of the client's rights and protection of the client from harm caused or threatened by reason of the client's incapacities.

While the local social services districts may not impose a service on a client who is capable of self determination and self care, neither may the local social services districts walk away from the client who is threatened with harm, unable to make decisions on his or her own behalf due to impairments and apparently unwilling to accept the needed services. The OCFS Bureau of Adult Services has reinforced this policy in a new PSA training curriculum on Serving Self Neglecting Clients.

CRISIS INTERVENTION

State law contains several specific interventions which can be utilized in crisis situations. A crisis is defined as a situation in which there is an immediate and identifiable danger to a person or his or her property and the person, because of impairment, regardless of cause or duration, is incapable of making the choices necessary to remove the endangering condition.

The immediacy and seriousness of the threat to the individual determine whether crisis intervention procedures and/or other legal procedures are warranted as set forth below. Districts have the authority as well as the responsibility to utilize these procedures in

appropriate situations on behalf of involuntary PSA clients and to assist OMRDD in that process where the individuals are OMRDD consumers.

1. Orders to Gain Access - SSL § 473-c.

A social services official may apply to the Supreme Court or County Court for an order to gain access to a person to assess whether such person is in need of PSA in accordance with the provisions of section 473 of the SSL when such official, having reasonable cause to believe that such person may be in need of PSA, is refused access to the person by such person or another individual.

2. Short Term Involuntary Protective Services Orders (STIPSO)-SSL § 473-a.

Section 473-a of the SSL authorizes social services officials to petition a court for a STIPSO on behalf of certain PSA clients who are at imminent risk of death or serious physical harm and are unable to understand the consequences of their situation. This law was enacted in large part because PSA staff had often been unable to take the necessary immediate action to protect the safety of their clients, who, although unable to comprehend the seriousness of their situation, could not be admitted to a psychiatric facility under the Mental Hygiene Law (MHL) because their condition was not the result of mental illness. Because of the need for expeditious action, the provisions of the MHL governing the appointment of conservators and committees were also of limited assistance due to the time consuming nature of these proceedings. Courts, however, do not have the authority to authorize intrusive medical procedures with a STIPSO under SSL § 473-a.

CONSULTING AND COLLABORATING WITH THE SERVICE NETWORK

The complicated nature of PSA clients and problems would suggest, and the SSL requires, that PSA staff consult with other appropriate public, private and voluntary agencies in order to maximize understanding, coordination and cooperative action in the provision of appropriate services to PSA clients. Thus, instituting the new MOU between DDSOs and PSA units is but one of several important tools working toward the joint goal of protecting vulnerable adults.

AVAILABILITY OF HUMAN RESOURCES

Another systemic issue for local PSA units as it is for DDSO, and DDSO providers, is the tension between the number of available staff (that has either remained constant or has shrunk since the enactment of the Adult Abuse Reporting Law) and the growing caseload of vulnerable adults who are the subject of referrals directed to either system. This is in addition to the reality of static or decreasing budgets to fund services and supported housing in this difficult fiscal climate. It is believed that the better the job that all concerned can do in documenting the numbers of referrals, the numbers of investigations, cases opened, services provided/arranged and the outcomes of our interventions, as well as the successes achieved and the challenges encountered in addressing the provisions of the law and the executed MOUs, the greater the chances for favorable allocation of staff and other resources in the future.

EXCHANGE OF DATA AMONG AGENCIES

Currently there appears to be little exchange of case record information or data derived from automated case recording systems among local social services PSA units, DDSOs and DDSO providers, with respect to the investigation and provision of services to vulnerable adults alleged to be abused or neglected. Likewise, on the State level, the exchange of data between NYS OCFS and OMRDD on Adult Services/Protective Services for Adults issues is infrequent, and in the most recent years has largely been in connection with the preparation of these annual reports. OCFS would like to work with OMRDD to encourage a greater exchange of data between our agencies to help us serve our mutual clients/consumers, and in addition to encourage a greater degree of information sharing among local social services PSA units, DDSOs and DDSO providers, in accordance with applicable confidentiality laws, to assist in the investigation and provision of services to clients/consumers. In many cases, DDSOs and DDSO providers who are investigating cases or providing services to PSA clients or former PSA clients will be entitled to confidential PSA case records under Social Services Law (SSL) as a "provider of services to a current or former protective services for adults client, where a social services official, or his or her designee determined that such information is necessary to determine the need for or to provide or to arrange for the provision of such services." SSL section 473-e (2)(b)

FINANCIAL MANAGEMENT

One of the issues faced by PSA units is the mandate to assure that financial management services are provided where necessary either directly by the PSA unit or by another services provider willing and able to assume this task. PSA units have at times experienced some resistance from providers within the OMRDD system who do not wish to provide financial management where the client may not voluntarily agree that he/she needs a representative payee or other financial management. As a result, PSA units often find themselves providing only the financial management component while other services are provided by the OMRDD-related agency.

V. STRATEGIES FOR SUCCESSFUL INTERVENTION IN ADULT ABUSE CASES: WHAT WORKED AND WHY

A. Successful Collaborations Among PSA Units, DDSOs and DDSO Providers

The Case Summaries included in Appendices 2 and 3 within this report illustrate many cases in which PSA units, DDSOs and DDSO providers successfully collaborated in the investigation, assessment and arrangement of services for vulnerable adults who were the subject of referrals, in accordance with applicable law and the MOUs executed pursuant to the law. These cases exemplify:

1. Prompt referrals from one system to the other where appropriate. Prompt referrals lead to quicker necessary action (investigation, assessment, development and

- implementation of services plan) to assist clients/consumers.
2. Prompt agreement to conduct joint visits to clients when requested. Joint visits resulted in much better coordination of services to benefit the client. Staffs of different agencies were able to provide a fuller picture of the services available to clients.
 3. Willingness to consult and assist in the delivery of services even when the primary responsibility for the case is with the other agency. This willingness to communicate and assist would generally result in more informed, and better coordinated action in the case, and maximized the likelihood of a better outcome for the client.
 4. Collaborative work on assessment of risks, development of written case plans and implementation of case plans. Such collaborative work minimizes the possibility for conflict and leads to better working relationships among agencies, and better development and implementation of the case plans.
 5. Cooperation on the part of both agencies in advising clients and their families of necessary eligibility criteria for services, and in facilitating eligibility determinations. Clear explanation of eligibility criteria with the cooperation of both agencies leads to less confusion, less dissemination of information that may not be accurate, and increases the chances of eligibility determinations being expedited.
 6. Cooperation on the part of PSA units, DDSOs and DDSO provider agencies in assessing the need for legal interventions and long term arrangements such as guardianships , and working together to provide the information necessary to seek such interventions and arrangements and to make available the services and resources necessary to serve clients. Success breeds success. Such cooperation in planning for and seeking such interventions and arrangements which leads to good outcomes for clients increases the likelihood that the agencies will work well together on the next case.

B. Areas Requiring Further Training and Improvement

The Case Summaries included within this report also illustrate certain areas which appear to highlight the need for additional training to support improved services to our mutual clients. These include:

1. Criteria for referrals to the appropriate agency.
2. The need for prompt feedback/response to the other agency as to case or eligibility status.
3. Reiteration of the ability of either agency to request joint visits.
4. Where cases are shared between agencies, the ability of either agency to request case conferences and cooperation in assessing risks, developing service plans and implementing such plans.
5. Provider agencies in general appear to need training on the provisions of the Adult Abuse Reporting Law and the components of the MOUs which seek to implement such law.

VI. RECOMMENDATIONS:

1. Continuing to improve communication among Local Departments of Social Services and Developmental Disabilities Services Offices about identified individuals at risk remains the strongest recommendation that OCFS and OMRDD can make. Even though most of the principals have met at regional meetings, representatives from both DDSOs and LDSS PSA units should have regular meetings to facilitate collaboration.
2. The training scheduled for Spring 2010 with DDSO providers, DDSO staff and local PSA unit staff should be followed up with regular regional or locally-based training to address any issues identified during collaboration and service delivery.
3. Following the initial phases of training on the requirements of the MOU, and based on the reported experiences in implementing the MOUs, both agencies should jointly consider targeted areas for improvement, and strategies for achieving such improvements. Both agencies should also consider appropriate reporting on performance measures relating to components of the MOU, especially those relating to areas needing improvement.
4. The number of emergency respite opportunities available statewide still needs to be increased. Long term placement can be avoided if a family is supported at home but when there is a crisis, the family is usually desperate for a break. A thoughtful long term plan cannot be made by family members who are overburdened. There continues to be a need for additional suitable supervised housing/emergency respite opportunities to serve individuals with developmental disabilities. When OMRDD cannot address the needs of a person with developmental disabilities, a hospital placement is often the only alternative available to the PSA unit, since most temporary housing used by PSA involves short-term motel stays without any supports in place to address the needs of someone with a developmental disability.
5. All adults with developmental disabilities who need a guardian should have a guardian appointed. It is critical to ensure that this topic is addressed in service plans.
6. The Mental Hygiene Law specifies in Section 16.19(d)(2) that a DDSO shall be deemed a provider of services for the purpose of access to adult protective records under section 473-e of the Social Services Law. Section 473-e (2)(b) specifies that reports and information may be made available by local social services districts to providers of services where a social services official, or his or her designee determined that such information is necessary to determine the need for or to provide or to arrange for the provision of such services. Since the statute gives discretion to local social services districts, and contains a limitation that is subject to interpretation, it may be necessary at some point to clarify in the statute that OMRDD has ready access to such records when investigating adult abuse cases concerning persons with developmental disabilities.

7. OMRDD and OCFS should work together to promote more effective transitions of older adolescents with developmental disabilities who are identified as needing supervision and services as they age out of children's services and need adult services. They should encourage collaboration and communication between the DDSOs, local provider agencies and where appropriate, with local PSA units to identify, plan for the needs of, and serve such vulnerable adults who are eligible for services. This relates to Recommendation 5, since there are children with disabilities in the care and custody of local district Commissioners because they are in foster care. Once the child's foster care term ends, someone has to be responsible for the disabled young adult, particularly if that individual isn't capable of transitioning to independent living in the community.

As implementation proceeds more fully, OMRDD and OCFS will work together to evaluate the gaps in statutory or regulatory authority granted to OMRDD and/or voluntary providers that may limit the ability to conduct an effective investigation and provide necessary interventions.

VII. STATISTICAL INFORMATION - NARRATIVE

On behalf of OCFS, the Bureau of Adult Services gathered statistical information for inclusion in this report. Data was collected and the information provided spans the timeframe of January 1, 2009 to September 30, 2009. During this period, local Department of Social Services Protective Services for Adults staff (excluding NYC) referred one hundred sixty five (165) clients to agencies affiliated with OMRDD. Twelve (12) clients were referred on multiple occasions: eight of those clients were referred twice, one was referred three separate times and four were referred four separate times. This is an increase in referrals from PSA to OMRDD compared to the same time period in 2008, in which there were one hundred nine (109) referrals.

Our statistical analysis shows that during this reporting period OMRDD or one of its voluntary agencies made two hundred seven (207) referrals to PSA upstate, seventy one (71) of which were accepted and opened for Assessment. The assessments are not complete for all, but fifteen (15) referrals have opened for Ongoing PSA services and the case records indicate that both agencies are providing assistance to eleven of the clients. Between 1/1/09 and 9/30/09, OMRDD or one of its voluntary agencies made one hundred thirty six (136) referrals to PSA which were not accepted for assessment due to application of the standards set out in the executed MOUs. By comparison, in the 2008 report it was stated that OMRDD or one of its voluntary agencies made 62 out of 135 referrals to PSA which were not accepted. This reinforces our belief that additional outreach and training needs to take place to ensure that the MOU is implemented appropriately.

In 2009, similar to previous years, LDSS PSA units reported that they had not been requested by their OMRDD colleagues to assist with a petition for an Order to Gain Access or a Short Term Involuntary Protective Services Order (STIPSO).

In order to satisfy the requirements of the law, DDSOs were requested to provide specific statistical information for inclusion in this report for the period January 1, 2009 through September 30, 2009. This information includes situations of alleged abuse and neglect occurring when individuals with developmental disabilities are not under the auspices of programs or services certified or funded by OMRDD, which is usually alleged familial abuse. The statistical analysis is presented in Appendix 4.

The presentation of statistical information also includes a summary of strategies used to intervene in the situations, and whether the strategies were effective. As noted above, in many of the recent situations, the investigations are ongoing and if interventions occurred, it is premature to evaluate the effectiveness of the intervention strategies.

The statistical data collected from OMRDD for this report were derived from reports sent from each DDSO on a standardized form. Each DDSO takes the lead in their district on coordinating with the local PSA units and facilitating and resolving issues with regard to the abuse reports.

Appendix 1 – Adult Abuse Reporting Law

Appendix 2 – Sample Cases of Abuse/Neglect: OMRDD/PSA Collaborative Efforts Collected from DDSOs

Appendix 3 - Sample Reports of Allegations of Abuse/Neglect/Exploitation of Individuals with Developmental Disabilities in Community Situations Collected from LDSS PSA Cases Statewide

Appendix 4 – Statistical Analysis and Trends

Appendix 5 – Memorandum of Understanding

Appendix 6 – Administrative Directive 07-OCFS-ADM-04

APPENDIX 1

Adult Abuse Reporting Law

**Abuse Reporting Law - Adults with Mental Retardation and
Developmental Disabilities**

Chapter 536 of the Laws of 2005 as amended by Chapter 356 of the Laws of 2006

Section 1. Section 16.19 of the mental hygiene law is amended by adding a new subdivision (d) to read as follows:

(d)(1) If, upon receiving a report that any adult thought to have mental retardation or another developmental disability has been subjected to physical, sexual, or emotional abuse, or active, passive or self neglect, and the commissioner has reason to believe that such adult is known by the commissioner to have received services from providers duly authorized by the commissioner and has been subjected to such abuse or neglect, the commissioner shall intervene pursuant to this section or, if such adult has not received services from said authorized providers, the commissioner shall, immediately or as soon as practicable, notify adult protective services established pursuant to section four hundred seventy-three of the social services law. The commissioner shall, within forty-eight hours, forward copies of reports made pursuant to this subdivision to the state commission of quality of care and advocacy for persons with disabilities and indicate if such report was referred to adult protective services.

(2) In order to carry out the provisions of this subdivision, the commissioner and the commissioner of the office of children and family services shall develop a model memorandum of understanding which shall be entered into between each developmental disability services office and each local department of social services within its jurisdiction. Such agreement shall define the responsibilities of each developmental disability services office and social services district with respect to reports pursuant to paragraph one of this subdivision and reasonable time frames for implementing such responsibilities. Such agreement entered into a record with such memorandum of understanding shall be finalized between all developmental disability services offices and all local department of social services no later than ninety days after the effective date of this subdivision. A developmental disabilities services office shall be deemed a provider of services for the purposes of access to adult protective records under section four hundred seventy-three-e of the social services law.

(3) The commissioner and the commissioner of children and family services shall submit a report on the physical, sexual, or emotional abuse, or active, passive or self neglect of adults with mental retardation or other developmental disabilities to the governor, temporary president of the senate and speaker of the assembly by January first, two thousand seven, and annually thereafter. In consultation with the commission on quality of care and advocacy for persons with disabilities, the commissioner and the commissioner of children and family services shall include in such report a description of systemic issues; a summary of strategies used for intervening in such cases; an

Note: New material is underlined.

evaluation of the success of such strategies; an evaluation of the implementation of the memorandum of understanding developed pursuant to paragraph two of this subdivision and the specific status of developmental disabilities services offices and local departments of social services, with respect to entering into an agreement as required by paragraph two of this subdivision; and any recommendations the commissioner believes are necessary to protect adults from abuse or mistreatment. The report shall also include the number of reports and a summary of common situations and trends contained in such reports which were:

- a. made to the commissioner pursuant to paragraph one of this subdivision;
- b. not referred to adult protective services, but in response to which the commissioner intervened; and the outcome of such intervention; and
- c. referred to adult protective services pursuant to paragraph one of this subdivision and the outcome of such referral.

Section 2. Subdivision (c) of section 16.19 of the mental hygiene law is amended to read as follows:

(c) In addition to any other remedies available under this article, the commissioner may bring an action to the supreme court to enjoin any person from unlawfully subjecting a mentally retarded or developmentally disabled person to physical, sexual, or emotional abuse, or active, passive or self neglect, or detaining a mentally retarded or developmentally disabled person or providing inadequate, unskillful, cruel or unsafe care or supervision for such a person.

Section 3. Section 45.07 of the mental hygiene law is amended by adding a new subdivision (w) to read as follows:

(w) Receive and review reports required pursuant to section 16.19 of this chapter and take any action as required by law. The commission shall also assist the commissioner of the office of mental retardation and developmental disabilities in developing and preparing recommendations required by paragraph four of subdivision (d) of section 16.19 of this chapter for submission to the governor, temporary president of the senate and speaker of the assembly.

Section 4. Paragraph a of subdivision 3 of section 6507 of the education law is amended to read as follows:

a. Establish standards for preprofessional and professional education, experience and licensing examinations as required to implement the article for each professional. Notwithstanding any other provision of law, the commissioner shall establish standards requiring that all persons applying, on or after January first, nineteen hundred ninety-one, initially, or for the renewal of, a

Note: New material is underlined.

license, registration or limited permit to be a physician, chiropractor, dentist, registered nurse, podiatrist, optometrist, psychiatrist, psychologist, licensed master social worker, licensed clinical social worker, licensed creative arts therapist, licensed marriage and family therapist, licensed mental health counselor, licensed psychoanalyst, or dental hygienist shall, in addition to all other licensure, certification or permit requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Such coursework or training may also include information regarding the physical and behavioral indicators of the abuse of individuals with mental retardation and other developmental disabilities and voluntary reporting of abused or neglected adults to the office of mental retardation and developmental disabilities or the local adult protective services unit. Each applicant shall provide the department with documentation showing that he or she has completed the required training. The department shall provide an exemption from the child abuse and maltreatment training requirements to any applicant who requests such an exemption and who shows, to the department's satisfaction, that there would be no need because of the nature of his or her practice for him or her to complete such training;

Section 5. The commissioner of the office of mental retardation and developmental disabilities shall promulgate any necessary rules and regulations.

Section 6. This act shall take effect immediately, and shall be deemed to have in full force and effect on and after February 12, 2006.

Note: New material is underlined.

APPENDIX 2

**Sample Cases of Abuse/Neglect:
OMRDD/PSA Collaborative Efforts
Collected from DDSOs**

Appendix 2

Sample Cases of Abuse/Neglect: OMRDD/PSA Collaborative Efforts Collected from DDSOs

Bernard Fineson DDSO

Consumer arrived to program with dried blood on his swollen mouth and a black eye. Case was substantiated. Brother hit consumer for taking his money. **PSA was contacted, accepted the case and is monitoring. OMRDD team met and counseled consumer for taking brother's property. Brother counseled on what constitutes abuse and the consequences of such action.**

Medicaid Service Coordinator (MSC) went for a visit and found the home in unfit condition, especially the consumer's room. **PSA was called and rejected the case as OMRDD was involved.** Family refused home attendant services as they do not want people in the home. Family agreed to renew Residential Habilitation services who will instruct consumer in room maintenance. Parents said they would consider dropping other OMRDD services. MSC continues to monitor. There have been no further reported incidents.

Consumer alleged foster brother kicked her in the stomach - no injury noted. Caregiver is a neighbor who has many foster children. Consumer does not wish to remain in the home. Caregiver told the MSC that she made a promise to consumer's father, who passed away, she would care for consumer. At that time a placement was available, but caregiver would not allow consumer to leave. Consumer was provided with a week of respite. MHLS was contacted and consulted with DDSO and OMRDD Voluntary Agency. **PSA did take the case, had a psychiatric evaluation completed and is recommending guardianship for the consumer.** Caregiver agreed to closely supervise her foster children and the consumer. Allegation of physical abuse was deemed inconclusive. Consumer still verbalizes that she wishes to be moved. **OMRDD is seeking residential placement.**

A consumer's wallet was stolen by his friends, who took money from the account using the ATM. The consumer has a drinking problem, but refuses to attend AA program. **PSA provided him with food, as he had none. OMRDD paid his electric bill. PSA is awaiting information from SSI as they are unsure how to proceed with this case.**

Brooklyn DDSO

There was one incident that **both OMRDD and PSA worked conjointly in assisting a family.** For this incident, the allegation of neglect was disconfirmed; however **both agencies provided services to address family health issues, financial support and in-home respite services.** The individual has also maintained regular program attendance and receives supportive services at the program site.

Central DDSO

A young woman had just turned 18 three weeks prior to her arriving at school with bruises. Over the course of a week she arrived on 3 separate days with new bruising. She

said she was afraid to go home. **OMRDD and PSA did a joint visit to her school. PSA filed for guardianship. OMRDD at the young woman's request took her to an IRA for respite and PSA communicated with her mother. She is now living in an IRA and doing very well.**

Western DDSO

Cooperation between county APS and an OMRDD agency in providing services allowed a gentleman and his mother to remain together in their residence despite their level of medical and other needs.

APPENDIX 3

**Sample Reports of Allegations of
Abuse/Neglect/Exploitation of Individuals
with Developmental Disabilities in
Community Situations from LDSS PSA
Cases Statewide**

Appendix 3

Sample Reports of Allegations of Abuse/Neglect/Exploitation of Individuals with Developmental Disabilities in Community Situations

- ZZ is a 64 year old female who lives with her brother and her brother's girlfriend. She has lived with them since her parents died; for approximately six years her brother has served as her representative payee. PSA was called because ZZ was observed in a restaurant and she was being yelled at and called "retard" and "stupid cow" by her brother and his girlfriend. The investigation revealed that there were no school records to indicate that ZZ could be eligible for services from OMRDD; in fact, the school refused to admit ZZ and one of her sisters (also developmentally disabled) due to retardation. PSA also learned that ZZ had not received any medical care for years. PSA was responsible for this referral but called local DDSO provider and **asked staff if they'd be willing to make a joint home visit. The DDSO provider agreed (and several joint visits took place),** told PSA that ZZ's brother and his girlfriend had asked for help with ZZ previously but then they never followed up. Brother and girlfriend told PSA they "don't want ZZ working" but PSA stated that the provider agency may have other programs for ZZ. **Provider agency staff explained available programs, told brother and girlfriend that determining eligibility for those services could take some time and suggested that the process begin, even if they decided that they didn't want ZZ to participate.** Relatives agreed; Guardianship and possible day care were discussed. Girlfriend stated that ZZ hasn't been ill but is afraid and may now need glasses. The provider agency and PSA stated that it's important for ZZ to have an annual physical and assured relatives that the provider agency has a MD on staff who is used to working with people with developmental disabilities. Brother and girlfriend agreed to begin the eligibility application process (adaptive behavior, IQ, social history) and indicated that ZZ could be examined by the provider agency's MD. ZZ has high blood pressure so medication prescribed. Brother and girlfriend were confused about which agency was going to assist, then admitted that ZZ would be better off if she were placed in an OMRDD residence where they could visit but she'd be taken care of if anything happened to them. ZZ is still living at home **but is on a waiting list for placement. OMRDD service plan includes service coordination, day habilitation, residential placement and Guardianship follow-up. PSA case closed more than eight months after referral received.**
- YY is a 24 year old male who was referred to PSA because he has limited mental capacity and needed a representative payee to help manage his Social Security funds. YY receives Medicaid Service Coordination through Sunmount DDSO but financial management isn't provided. PSA visited YY and he signed an application for services on the first visit. He agreed to pay \$15.00/month for

financial management services and PSA responds to YY's monetary needs and explains his budgeting. **PSA and YY's MSC have assisted him with a move from one part of the county to another. There are regular conversations between the two agencies regarding YY and cooperation all around. YY remains in his own apartment with assistance from both agencies.**

- **XX is a 23 year old male who has been in foster care since the age of fourteen. XX is described as having mild mental retardation, severely impaired cognitive functioning, deficits in adaptive functioning, depression, severe social anxiety, Pervasive Developmental Disorder and he currently resides at a school out of state. XX does well at the school and has been cited for his exemplary behavior, i.e., always ready/willing to help when needed (e.g., in the kitchen). XX has done well in academic classes as well as cooking, gardening, and carpentry classes. DSS Commissioner is XX's Article 17A Guardian; XX is eligible for OMRDD services and is awaiting placement through the DDSO. He was scheduled to be one of the first residents of a new IRA but then the building site wasn't approved, so the plan was placed on hold. The school is willing to allow him to remain, although XX has been recommended for another program. Individuals enter as students (age 18 to 25) and participate in a comprehensive structured program. XX isn't convinced that this program is for him and hopes for a placement in an IRA. PSA has been involved with XX because of a joint Foster Care/PSA Teaming Initiative. XX regularly visits with his mother and a sister who is in foster care in another county. XX requested contact with another sibling, an older brother who has multiple criminal issues and so far, LDSS Commissioner as Guardian has refused to allow this, feeling it is not in XX's best interest. PSA case remains open while a subsequent residential placement is considered. There has been ongoing cooperation and collaboration among Foster Care, PSA, the school, and DDSO workers responsible for ensuring that XX has appropriate services.**
- **WW is a 28 year old male who was referred to PSA by OMRDD voluntary agency. Referral should have Closed at Intake but PSA opened the case for Assessment. WW resides with mother, stepfather and younger brothers. WW was beaten up at the bus stop by his brothers. Intervention with family by PSA to address the behavior of the younger siblings as well as role of adults regarding care for WW. Cooperation demonstrated by voluntary agency staff, since PSA needed help with coordination of schedules to see WW at his program. But no joint home visits took place. Voluntary agency staff advised WW of housing options, but he decided to stay at home. PSA case closed.**
- **VV is a 20 year old male with Asperger's Syndrome who is described as being out of control and possesses an explosive personality. After regular office hours, mother told New York State Police to remove him from her household and he was placed in a motel overnight. Police dealt with DSS emergency on-call to secure placement for VV. Mother may have thrown out VV's medications when she had him removed. VV admitted that he'd stayed previously in a DDSO Family Care**

home but emergency placement had to proceed. On-call DSS staff made referral to PSA on the next business day. PSA contacted mother and father as well as VV's previous DDSO worker in a downstate region. Father agreed to pick VV up and transport him back to that region, but VV cannot reside with father. Arrangements were made for VV to reside with his grandfather while the DDSO arranges housing. VV has control of his Social Security money and does not need a representative payee. VV admitted that he should have remained downstate and **PSA was assured that DDSO would reopen services; upstate PSA case closed and no further PSA involvement is documented.**

- UU is a 27 year old male who resides with his 70 year old father. PSA received referrals on both men from the housing authority/landlord because the rent hadn't been paid in three months. UU is described as developmentally disabled and it was learned that he receives services from an OMRDD voluntary agency. **PSA referral on UU should have Closed at Intake but it was opened for assessment.** Elderly father controls the money and has issues managing the household income. Explanation provided about financial management and possibility of LDSS becoming representative payee for them. Father addressed the issue of back rent. **PSA made a joint visit with UU's service coordinator from the voluntary agency and it appeared that the situation was stabilized. The referral regarding UU was Closed at Assessment because it was referred to another agency (the OMRDD voluntary), which was the correct decision, although that conclusion should have been reached as soon as the referral was made.**
- TT is a 72 year old developmentally disabled woman who always lived at home in the community but has always been dependent on others for her care. TT lived with her mother until her mother's death and they were very isolated; mother wouldn't allow access by most relatives. After mother died, TT went to reside with her sister and she had to be medically sedated to make the move. TT is described as agoraphobic and she never attended school and hasn't had any medical care for at least 25 years. When sister died, PSA received referral because TT was living with an alcoholic relative, who could not provide adequate care and trying to be relieved of responsibility for TT. **PSA and an RN teamed to assess TT.** During PSA/RN's first visit, TT refused to make eye contact and wouldn't speak. PSA gathered information from the relative with whom she lived, the referral reporting source (another relative) and decided that TT needed frequent visits to ensure her safety. The initial plan included financial management (representative payee for TT), homemaker service, Meals on Wheels, and **referral/assessment for OMRDD eligibility**, Medicaid and Food Stamps. Next PSA needed to pursue involuntary legal intervention (Article 81 Guardianship) for the purpose of authorizing long term placement in a residential care facility. TT was initially very resistant to caseworker efforts to engage her and get her to accept services. **DDSO staff joined PSA staff on multiple visits. DDSO staff met with DSS Legal staff to discuss Guardianship**, which was subsequently filed. **DDSO and PSA staff conferred repeatedly on issues of**

appropriate placement and services for TT. DDSO staff cooperated in the process to seek guardianship and worked with PSA to satisfy the court's concerns about appropriate placement and level of care. Finally, TT agreed to go to a hospital to be examined and admitted and was subsequently discharged to an OMRDD licensed community residence. She has adjusted to her new surroundings. TT has medical issues which need to be addressed by her Guardian, the DSS Commissioner. PSA case remains open, although the DDSO applied to be TT's representative payee.

- SS is a 20 year old male with a heart condition and severe developmental delays who functions like a 3 month old. SS lived at home with his parents and PSA received a referral which stated that because he was not being fed properly, his weight was down to 50 lbs, his diaper was not being changed, he was not bathed, and SS was often left home alone, locked in his bedroom. The investigation revealed that SS had been involved with an OMRDD voluntary agency six years prior but no contact since then. Also, SS had recently fallen down a flight of stairs and was taken to the hospital ER (weight recorded as 60 lbs) but when the ER contacted his primary MD, that office indicated that he hadn't been seen for years. SS was also described as non-verbal and presented with a diagnosis similar to cerebral palsy. PSA staff visited the home and found both parents and an older sister on the porch; all had been drinking and SS was locked in his upstairs bedroom. When the mother unlocked SS's door, there was a strong smell of urine and SS was observed as unable to walk but he rolled around on the floor. Mother explained that SS didn't attend school and didn't receive any community services because she could provide for him. She denied that he was ever home alone and refused to consider a group home placement or any other services. The following day, mother was so upset by the PSA visit that she asked her father to take SS to his home. PSA visited at grandparents home and they admitted that they could only meet his needs for a short timeframe. PSA began to consider an emergency hospital placement when SS's sister admitted that he was often left home alone for hours and wasn't fed properly or bathed. **PSA immediately coordinated eligibility appointments for Medicaid and Social Security benefits and began to explore OMRDD eligibility and DDSO housing. Fortunately, the OMRDD voluntary agency contacted by the family in the past retained SS's eligibility records and test results so SS was quickly determined to be eligible for OMRDD services.** PSA arranged a family meeting with both parents, the grandfather and the older sister and acknowledged how difficult it was to care for someone 24/7, especially without any outside supports. PSA emphasized safety concerns regarding SS; mother finally admitted that she was struggling to care for her son. The family then assisted PSA with securing required medical documentation and treatment so he could be placed. SS now resides in a DDSO group home with other young people and supportive services in this supervised setting. SS's family can visit him. **The process from referral to placement only took six weeks due to hard work, collaboration and cooperation between PSA and the OMRDD agencies.**

- RR is a 18 year old developmentally disabled non-verbal male who appeared to need dental work because he suffered from pain in his mouth. PSA was notified by his school and the DDSO had no record of RR. **PSA asked the local OMRDD voluntary agency to make a joint visit to the home and that took place right away.** RR lives with his parents and they agreed to address RR's medical and dental needs quickly. **PSA and agency staff also discussed legal issues (i.e., Guardianship)** regarding RR and parents agreed to consider making a plan for RR. **Voluntary agency staff explained what could be provided for RR if eligibility is determined.** The medical and dental issues were addressed during the assessment period and the **PSA case closed.** It is unknown whether the family decided to pursue eligibility for OMRDD services.

APPENDIX 4

Statistical Analysis and Trends

Progress on Implementation of the Abuse Reporting Law

Statistical Analysis and Trends

Information was collected for the time period beginning January 1, 2009 and ending September 30, 2009.

Incidents involving abuse/neglect to adults with mental retardation or developmental disabilities not under the auspices of OMRDD certified or funded programs (e.g. familial abuse) 279

Cases referred to PSA from OMRDD.....168
Cases referred to OMRDD from PSA.....52
Other59

Referrals:

Accepted by PSA41
Rejected by PSA87
Unknown if accepted40

Type of allegation reported:

Physical abuse128
Sexual abuse 21
Psychological abuse.....22
Neglect 55
Physical abuse and psychological abuse.....7
Physical abuse and neglect4
Psychological abuse and neglect3
Unknown/Other.....39

Intervention provided by:

OMRDD 218
PSA8
Both33
Unknown/Other.....19

Strategies/Services provided as a result of intervention:

Living Assistance.....31
Guardian appointed1
Day services.....2
Case Management..... 2
Other.....79
Living assistance and guardian appointed.....7
Living assistance and day services..... 2
Living assistance and case management.....3
Living assistance and other.....9

Living assistance, day services and other.....	3
Living assistance, day services and case mgmt.....	3
Living assistance, case management and other.....	7
Day and case management.....	7
Day and other.....	5
Unknown/None	107

Was the intervention effective?

Yes	139
No.....	27
Didn't respond/unknown.....	113

Comments:

- Data was reported by local Developmental Disabilities Services Offices.
- Not all abuse has been substantiated.
- In some instances investigations were still underway at the time of reporting.
- "Other" strategies/services that may have been provided as a result of an intervention include, but are not limited to; counseling, environmental adaptations to a home, agency monitoring and follow-up, medical treatment or examinations, and scheduled meetings between the individual, family member(s) and the Medicaid Service Coordinator.

APPENDIX 5

Memorandum Of Understanding

OMRDD-DDSO / OCFS-PSA MEMORANDUM OF UNDERSTANDING

I. PURPOSE

This agreement is between _____ Developmental Disabilities Services Office (DDSO) and the _____ County/Local Department of Social Services (LDSS). The agreement sets forth the joint responsibilities of the DDSO and the LDSS pertaining to the abuse reporting for individuals with mental retardation or developmental disabilities. The DDSO provides services to such persons as defined in Section 1.03(22) of the Mental Hygiene Law (MHL). The LDSS through its Protective Services for Adults program (PSA) provides protective services to impaired individuals over 18 years of age as defined in Article 9-B of the Social Services Law (SSL). Pursuant to Chapter 536 of the Laws of 2005, which amended Section 16.19 MHL, each DDSO and LDSS must enter into a Memorandum of Understanding (MOU) to ensure the appropriate reporting and investigation of suspected cases of abuse of adults with mental retardation or developmental disabilities.

Both entities recognize that each has a unique role in service provision to adults with mental retardation or developmental disabilities. Both entities also recognize that the needs and interests of said adults will be better served with a clear delineation of the roles and responsibilities of each entity with regard to such adults who are subjected to abuse, neglect or exploitation. Both the DDSO and the LDSS/PSA enter into this agreement in a spirit of interagency collaboration to facilitate the coordination of appropriate and necessary services to adults with mental retardation or developmental disabilities.

II. PSA ELIGIBILITY CRITERIA AND SERVICES

All adults 18 years of age or older who meet all of the following three criteria are eligible for intervention:

1. are incapable of meeting their own basic needs or protecting themselves from harm due to mental and/or physical incapacity; and
2. are in need of protection from actual or threatened harm, neglect or hazardous conditions caused by the action or inaction of either themselves or other individuals; and
3. have no one else available who is willing and able to assist them responsibly.

Services available under PSA include counseling, locating social services, medical care and other resources in the community, advocacy, homemaker, housekeeper/chore services, money management, assistance in finding alternative living arrangements, and pursuing appropriate actions on behalf of adults with mental retardation or

developmental disabilities who require involuntary intervention. These actions may include pursuing court orders to: (1) obtain access to the person in accordance with SSL 473-c; (2) provide short-term involuntary protective services in accordance with SSL 473-a; (3) request the appointment of a guardian; (4) obtain an Order of Protection under Article 8, Family Court Act.

III. OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES (OMRDD) ELIGIBILITY CRITERIA AND SERVICES

OMRDD provides services to persons with diagnoses of developmental disabilities. Developmental disability is defined in Article 1, Section 1.03(22) of the Mental Hygiene Law as a disability of a person which:

1. is attributable to mental retardation, cerebral palsy, epilepsy, neurological impairment, familial dysautonomia or autism;
2. is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of persons with mental retardation or requires treatment and services similar to those required for such persons; or
3. is attributable to dyslexia resulting from a disability described in subparagraph (1) or (2) of this paragraph; and
4. originates before such person attains age twenty-two; and
5. has continued or can be expected to continue indefinitely; and
6. constitutes a substantial handicap to such person's ability to function normally in society.

Services provided by OMRDD directly or via an authorized or certified OMRDD voluntary provider include various day and residential services, service coordination and clinical services.

IV. REFERRAL PROCESS

A. DDSO to LDSS/PSA

When a report of suspected abuse of an adult who may have mental retardation or developmental disabilities is made to the DDSO, the DDSO shall determine by whatever means it may have available, if OMRDD or one of its voluntary providers has, as of January 1, 2005 or later: (1) provided residential or day program services to the person; or (2) if the person has received medicaid service coordination or home and community-

based waiver services. If the DDSO cannot reasonably determine that such person has received services from OMRDD or one of its duly authorized providers then the DDSO shall immediately, or as soon as practicable, make a referral to LDSS/PSA of the suspected adult abuse case.

If the DDSO finds that either (1) or (2) above are met, then the DDSO or the voluntary provider shall investigate the reported case pursuant to OMRDD regulations at 14 NYCRR Part 624. If the DDSO or the voluntary provider, after making reasonable efforts, cannot gain access to the adult to investigate and/or finds that the adult needs protective services that the DDSO or voluntary provider cannot provide, then the DDSO or the voluntary provider shall make a referral to the LDSS/PSA unit responsible for Intake. The DDSO or voluntary provider will clearly state the reasons for the referral and outline the risks to the adult in his/her situation. The phone referral will be followed-up by the DDSO or voluntary provider giving LDSS/PSA any available relevant written or oral information that the DDSO or its voluntary providers may have regarding the individual's developmental and psychosocial history. The DDSO or the voluntary provider shall assist in the preparation of the affidavit establishing the factual basis for pursuing any necessary order by providing all relevant and available documentation in support that it may have as required by the County Attorney. The County Attorney that represents the LDSS/PSA shall determine if there are sufficient grounds to proceed with the order. If granted, the DDSO or the voluntary provider shall accompany LDSS/PSA upon execution of the order. The DDSO must forward reports of the suspected adult abuse case to the Commission on Quality of Care and Advocacy for Persons with Disabilities within 48 hours of receipt and indicate if such report was referred to LDSS/PSA.

Upon receipt of a PSA referral from the DDSO, the LDSS/PSA will determine whether to accept or reject the case for a PSA assessment or request additional information as needed. If additional information is needed which is pertinent to the person's potential eligibility for PSA, the LDSS/PSA will request information from appropriate sources to enable a decision to be made as to whether the case will be accepted for a PSA assessment. In any case, a decision will be made whether to accept the case for assessment within 24 hours after the referral is received. If, on the basis of information supplied by the DDSO or voluntary provider and any additional information obtained by the LDSS/PSA, it appears that the person may be eligible for PSA, the case must be accepted for assessment.

A case will be rejected for assessment only if PSA eligibility can be conclusively ruled out. If any doubt remains about a person's PSA eligibility, the case will be accepted for assessment. LDSS/PSA will notify the DDSO or the voluntary provider of its decision to accept or reject a case immediately.

Upon acceptance of a referral for PSA assessment, the assigned LDSS/PSA caseworker will visit the referred individual within three working days of the referral (or 24 hours if the situation is life threatening) in accordance with the regulations set forth at

18 NYCRR Section 457.1 (c) (2). Either agency will perform joint visits when requested by the other agency.

B. LDSS/PSA ASSESSMENT PROCESS

During the 60 day period between the acceptance of a referral and the determination of PSA eligibility, LDSS/PSA will assess the person's needs and provide or arrange for services, as indicated in 18 NYCRR Section 457.1 (c) to meet the consumer's needs which have been identified in the assessment/investigation process.

As soon as reasonably possible, but no later than 60 calendar days after the referral date, a determination will be made whether the case will be opened for PSA beyond the assessment period. Cases which do not meet the "PSA Client Characteristics" will not be opened for ongoing PSA services (i.e. cases in which the identified risk factors have been resolved during the 60 day assessment process or cases in which there is no indication of abuse, neglect or exploitation, or the adult has a responsible person(s) or entity(ies) willing and able to meet their needs). Upon making such a decision LDSS/PSA will inform the DDSO within 7 days. For those cases which will be opened for PSA beyond the 60 day assessment period, the DDSO and LDSS/PSA will work collaboratively, as necessary, on a written case plan which outlines service goals, services to be rendered, the role of each agency and a schedule of treatment conferences including frequency, site and participants. The written case plan will be made part of the case record of each agency.

C. PSA TO DDSO

Based upon information obtained at referral or any subsequent investigation of a suspected adult abuse case conducted by LDSS/PSA, it will refer adults with mental retardation or developmental disabilities who may need services to the appropriate DDSO. However, a referral by LDSS/PSA to a DDSO does not negate LDSS/PSA's responsibilities on behalf of persons who are eligible for PSA as specified in this agreement and in 18 NYCRR Section 457.1 (b). For those cases which require PSA involvement beyond the 60 day assessment period, within two weeks of receipt of a referral from LDSS/PSA, the DDSO and LDSS/PSA will participate in joint case management visit by both agencies with the client. The visit will be arranged and coordinated by LDSS/PSA in cooperation with the DDSO. The DDSO will, within 7 days of the joint visit or as soon as possible thereafter, advise LDSS/PSA as to whether or not the adult referred is eligible for OMRDD services, whether or not the DDSO can provide or arrange for services to the individual, and the nature of such services to be provided.

For persons with mental retardation or developmental disabilities who are not eligible for PSA services, the DDSO will assume responsibility for providing or arranging for the

provision of necessary services to these individuals. Upon receipt of a referral from LDSS/PSA, the DDSO will assess the nature and extent of the person's disabilities, their need for services, and, if found eligible by the DDSO, will plan for services that are appropriate and available.

In cases of dually diagnosed individuals (developmental disability and mental illness) in which there is uncertainty about which service system (OMRDD or OMH) has primary responsibility, OMRDD will work with the Office of Mental Health to ascertain the primary diagnosis of the adult. OMRDD will notify LDSS/PSA as to which agency (OMRDD or OMH) is assuming primary responsibility for the case.

Within 30 days of acceptance of a case by the DDSO in which LDSS/PSA will be involved beyond the 60 day assessment period, both agencies will jointly develop a written case plan which will outline service goals, services to be rendered, the specific service provider, the anticipated date services will begin, and the roles of each agency, including which agency will act as primary case manager. The primary case manager will be determined on a case by case basis, depending on the needs of the person. To the extent possible, the joint case plan shall be consistent with the PSA service plan which must be completed within 60 days of the PSA referral date in accordance with 18 NYCRR Section 457.2(b)(4). The written plan must be made part of the individual's record at each agency.

D. SERVICE DELIVERY

In mutually served cases where both LDSS/PSA and OMRDD are involved, each agency will take responsibility for those activities assigned to them in the written case plan.

When a need is identified for placement specifically within the OMRDD system, particularly emergency placement of a person with mental retardation or developmental disabilities, the DDSO will be responsible for seeking a placement within their system.

Each agency will notify the other of significant changes in the shared case's condition or situation (e.g., changes in medical status, living situation, loss of benefits) as soon as practicable after a change is identified.

Any activity or decision by either agency which would have the effect of discontinuing services or otherwise significantly changing the service plan must be communicated in writing to the other agency at least 30 days prior to the changes or as soon as practicable if 30 days' notification is not possible. Verbal communication may appropriately preface the written communication.

Each agency may at any point call a case conference involving both agencies and other service providers if it is felt that a conference is needed to review significant changes in the person's situation or to devise an appropriate service plan.

V. PROCEDURES FOR INVESTIGATING ABUSE, NEGLECT OR EXPLOITATION

A. PERSONS WHO THE DDSO REASONABLY BELIEVES HAVE MENTAL RETARDATION OR DEVELOPMENTAL DISABILITIES AND WHO HAVE RECEIVED SERVICES FROM OMRDD CERTIFIED, AUTHORIZED OR FUNDED PROGRAMS

The investigation of alleged abuse or neglect of consumers while under the auspices of an OMRDD certified, authorized or funded program is the responsibility of the agency staff (the DDSO is the "agency" for state-operated programs). Requirements concerning the review and reporting of incidents of alleged abuse or neglect by OMRDD certified or authorized programs are stated in OMRDD regulations at 14 NYCRR Part 624. Agencies are also required to take such action as is necessary to protect the safety and welfare of the consumer and develop recommendations for protective/corrective actions of the alleged abuse or neglect.

The agency is also responsible for intervening when abuse or neglect is suspected when the consumer is not under the auspices of the agency (e.g., at home) or involves people who are not affiliated with the agency. The agency may also make a referral to LDSS/PSA when the remedies of the agency are insufficient. The agency may request a joint visit with LDSS/PSA staff or other specific PSA involvement, such as assistance in obtaining a court order to access the person. LDSS/PSA will accept the referral in accordance with its standard procedures and will collaborate with the agency as needed.

B. PERSONS WHO THE DDSO REASONABLY BELIEVES DO NOT HAVE MENTAL RETARDATION OR DEVELOPMENTAL DISABILITIES

In the event that a report is made to the DDSO or to one of its voluntary providers alleging abuse, neglect or exploitation concerning such a person, the DDSO or the voluntary provider shall make a referral to LDSS/PSA. The DDSO or the voluntary provider shall provide any relevant information it may have available regarding the person's developmental and psychosocial history to LDSS/PSA. LDSS/PSA will accept the referral in accordance with its standard procedures, and will assume initial responsibility for the investigation of such reports and intervention in the situation.

If during the investigation of the referral, LDSS/PSA becomes aware that the person may have a developmental disability and that resolution of the abuse may be facilitated by the provision of services through OMRDD, LDSS/PSA may make a referral to the DDSO for an eligibility determination and assessment for potential services. The DDSO will utilize its standard intake procedures upon receiving the referral. Either agency will perform joint visits when requested by the other agency.

C. HIGH RISK CASES

The following protocol will be followed by the DDSO and LDSS/PSA in cases identified by either agency to be a high risk situation (imminent risk to the person's health, safety or stability of living arrangement).

Existing Cases Being Mutually Served by LDSS/PSA/DDSO

In cases already being mutually served by both agencies, the agency which first identifies the high risk situation will immediately notify the other agency. The purpose of the notification will be to arrive at an immediate plan to address the crisis situation using the resources available to both agencies. If joint consultation is not possible, the agency which identified the high risk situation must take action to resolve the crisis and notify the other agency after the fact.

The primary focus in high risk cases is the resolution of the crisis. When determined feasible, LDSS/PSA and the DDSO will make every effort to arrange a joint home visit as soon as possible to assess the crisis situation (within 24 hours if the situation is life threatening) but no later than three (3) working days following the identification of the situation.

If determined necessary, either agency may call an immediate case conference to devise a plan to address the crisis situation. The plan will come from the meeting and will specify services to be provided and the role of each agency.

New Cases

In new cases, the supervisor of the agency which identifies the high risk situation will notify, when possible, the supervisor of the other agency by telephone if it is felt that the assistance of the other agency is necessary and appropriate to address the situation. The referring agency will clearly explain the high risk factors in the person's situation and the need for priority attention. When determined feasible, LDSS/PSA and the DDSO will make every effort to arrange a joint home visit as soon as possible to assess and resolve the crisis situation (within 24 hours if the situation is life threatening) but no later than three (3) working days following the identification of the situation.

D. NOTIFICATION TO LAW ENFORCEMENT

In cases of alleged abuse, neglect or exploitation in which it is suspected that a crime has been committed, both parties recognize that law enforcement must be involved and will cooperate in this process. OMRDD regulations at 14 NYCRR Sec. 624.6 (d) require that in the case of any reportable incident or allegation of consumer abuse where a crime may have been committed, it is the responsibility of the program administrator or

designee of an OMRDD operated or certified program to notify law enforcement officials. For abuse occurring in the community in which it is suspected that a crime has been committed, a referral must be made to law enforcement. Additionally, the LDSS/PSA is mandated to report to law enforcement pursuant to Section 473-5 SSL when they have reason to believe a criminal offense has been committed against a client. Such notification may be made by the individual, LDSS/PSA or OMRDD/program staff, preferably through consultation of all three parties and it shall be documented in the individual's case record at each agency.

VI. INFORMATION SHARING

Both agencies agree to share that information concerning the referred or mutually served person which is necessary to develop and implement service plans, to the extent permitted by applicable laws and regulations including Title 18 NYCRR Part 357 and Section 33.13 MHL. Information may be disclosed where such disclosure is reasonably necessary to assess an individual or to provide protective services to an individual. Pursuant to Chapter 536 of the Laws of 2005, the DDSO shall be deemed a provider of services for the purposes of access to adult protective records under Section 473-e SSL.

Both agencies agree to orient their staffs concerning the implementation of this agreement. Both agencies agree to participate in training of each other's staff regarding the mission and operation of each program.

VII. CONFLICT RESOLUTION

The DDSO and LDSS/PSA each retain responsibility for making eligibility decisions regarding their own programs and/or services and determining the type, duration and scope of services they will provide to eligible persons. However, in order to promote coordination and collaboration, each entity shall seek to resolve any conflicts in accordance with the process described below.

In cases of disagreement between the DDSO or its voluntary providers and LDSS/PSA staff about a person's eligibility for services or the appropriateness of a services plan, every effort shall be made to resolve the conflict at the staff/practitioner level. If resolution cannot be achieved at that level, supervisory staff in each agency will confer to reach an acceptable resolution. If a dispute cannot be resolved at the supervisory level, the dispute will be referred to the administrative level at each agency (i.e., the DDSO Director or his/her designee and the Commissioner of the Local Dept. of Social Services or his/her designee) for resolution. Both parties agree to make every effort to resolve disputes through the internal conflict resolution process discussed above. If a dispute cannot be resolved by the two parties, each party reserves the right to pursue

an equitable resolution of the matter, including requesting guidance from OCFS or OMRDD administrative staff.

VIII. TERMS OF AGREEMENT

OMRDD and OCFS will review the terms of this agreement at least annually. Changes to the agreement may be made at any time by mutual consent.

Nothing in this agreement shall substitute, or represent a change in, either agency's legally mandated responsibilities.

COMMISSIONER _____ County
Department of Social Services

DATE

DIRECTOR OF _____
DDSO

DATE

1/24/07

APPENDIX 6

**Administrative Directive
07-OCFS-ADM-04**



Eliot Spitzer
Governor

**NEW YORK STATE
OFFICE OF CHILDREN & FAMILY SERVICES**
52 WASHINGTON STREET
RENSSELAER, NY 12144

Gladys Carrión, Esq.
Commissioner

Administrative Directive

Transmittal:	07-OCFS-ADM-04
To:	Commissioners of Social Services
Issuing Division/Office:	Division of Development and Prevention Services Office of Program Support Bureau of Adult Services
Date:	March 26, 2007
Subject:	Protective Services for Adults (PSA): Memorandum of Understanding with Office of Mental Retardation and Developmental Disabilities (OMRDD)
Suggested Distribution:	Directors of Services Adult Services Staff Agency Attorneys Staff Development Coordinators
Contact Person(s):	Bureau of Adult Services Director Susan B. Somers Susan.Somers@ocfs.state.ny.us Your district's Bureau of Adult Services program representative: Michael Cahill Michael.Cahill@ocfs.state.ny.us Deborah Greenfield Deborah.Greenfield@ocfs.state.ny.us Richard Piche Rich.Piche@ocfs.state.ny.us Deborah Schwencke Deborah.Schwencke@ocfs.state.ny.us Paula Vielkind Paula.Vielkind@ocfs.state.ny.us
Attachments:	OCFS-PSA/OMRDD-DDSO Memorandum of Understanding
Attachment Available Online:	No

Previous ADMs/INFs	Releases Cancelled	Dept.R egs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
93 INF-37	93 INF-37	457	473 SSL 16.19 MHL		

I. Purpose

The purpose of this Administrative Directive is to inform Local Departments of Social Services (LDSS) of the enactment of Chapter 536 of the Laws of 2005, as amended by Chapter 356 of the Laws of 2006. This new law requires the Commissioner of OMRDD to investigate reports of physical, sexual or emotional abuse, or active, passive or self-neglect, of any adult living in the community presumed to be diagnosed with mental retardation or a developmental disability known by the OMRDD Commissioner or any of OMRDD's duly authorized service providers. Further, it directed OMRDD and OCFS to develop the attached Memorandum of Understanding (MOU) delineating the responsibilities of both agencies regarding the reporting and investigating of suspected cases of abuse of adults diagnosed with mental retardation and/or a developmental disability. This MOU shall be executed by each Developmental Disabilities Services Office (DDSO) and each LDSS within its jurisdiction and reviewed at least annually.

II. Background

In 1992, a report was issued by the Commission on Quality of Care for the Mentally Disabled which strongly recommended that the NYS Department of Social Services (now OCFS) and OMRDD clarify the responsibilities of Protective Services for Adults (PSA) and other agencies serving adults diagnosed with mental retardation and/or a developmental disability when allegations of abuse, neglect or exploitation were conveyed regarding incidents in the community (as opposed to a protected, residential setting). The former DSS in conjunction with OMRDD developed a model Memorandum of Understanding (MOU) for use by PSAs and DDSOs. Use of the model MOU was recommended but not required. With the enactment of Chapter 536 of the Laws of 2005, PSAs and DDSOs are now required to execute an MOU.

III. Program Implications

This MOU covers the following topics:

- the eligibility criteria for PSA and OMRDD services;
- the referral process between each agency;
- service delivery;
- procedures for investigating abuse, neglect or exploitation;
- referrals to law enforcement;
- dealing with high-risk cases;
- information sharing; and
- conflict resolution.

The MOU will support Section 473 of Social Services Law, which requires that LDSSs plan with other public, private and voluntary agencies for the purpose of assuring maximum local understanding, coordination and cooperative action in

the provision of appropriate services to PSA clients. Copies of the MOU are also being sent to the DDSOs by OMRDD, since OMRDD is responsible to provide services to any adult living in the community thought to be diagnosed with mental retardation or a developmental disability who is known by the OMRDD Commissioner or any of OMRDD's duly authorized service providers.

IV. Required Action

Each LDSS Protective Services for Adults (PSA) unit must:

- execute a Memorandum of Understanding (MOU) with the DDSO that provides services to clients in that county;
- submit a copy of the fully executed MOU to the NYS OCFS Bureau of Adult Services, 52 Washington Street, Rensselaer, NY 12144 as soon as the agreement is reached and whenever it is modified;
- compile, either by use of the Adult Services Automated case management Program (ASAP) where available, or manually, a log of the clients referred to PSA by OMRDD or any of its duly authorized service providers together with case details on service plans and outcomes sufficient for OCFS to develop a systemic issues report summarizing strategies and successes. LDSS shall submit the log to the Bureau of Adult Services by December 30 of each calendar year.
- The OCFS Bureau of Adult Services, in concert with OMRDD, is required to submit a report addressing referrals regarding adults diagnosed with mental retardation or a developmental disability and service delivery to the Governor, Temporary President of the Senate and Speaker of the Assembly in early January of the following year.

V. Systems Implications

None at this time.

VI. Effective Date: Immediately

s/s Jane G. Lynch

Issued By:

Name: Jane Lynch

Title: Deputy Commissioner

Division/Office: Division of Development and Prevention Services
Office of Program Support
Bureau of Adult Services