

Office of Children and Family Services

Oversight of Adult Protective Services Programs

Report 2020-S-2 | November 2021

OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine if the Office of Children and Family Services adequately monitors Adult Protective Services activities to protect vulnerable adults. The audit covered referrals received for the period from April 2017 through December 2020 and the relevant work completed through April 2021.

About the Program

In New York State, the Office of Children and Family Services (OCFS) administers the Adult Protective Services (APS) program to assist vulnerable adults. APS is a program of State-mandated services for adults (over age 18) who, because of mental or physical impairments, are unable to meet their essential needs (e.g., food, shelter, clothing, medical care); are in need of protection from abuse, neglect, financial exploitation, or other harm; or have no one available who is willing and able to assist them responsibly. Services provided range from safety monitoring, linkages with other service providers (e.g., health, mental health, aging), and assistance in obtaining benefits to informal money management and court petitions to appoint a guardian or other legal intervention.

Within OCFS, the Bureau of Adult Services (Bureau) oversees local APS programs statewide. OCFS' network of APS providers is composed of several categories of entities: the 57 county Local Districts of Social Services and the St. Regis Mohawk Tribe Department of Human Services, responsible for APS referrals outside of New York City (rest of State, or ROS); and 10 field offices and/or contractors in New York City, responsible for APS referrals in the five boroughs. (Hereafter, these entities are collectively referred to as APS providers.)

According to research published in 2020,¹ each year about 1 in 10 older adults (age ≥ 60 years) in the United States experiences elder abuse, including physical, sexual, or psychological abuse, as well as financial exploitation or neglect by caregivers. Elder abuse also often goes undetected; only 1 in 24 cases are identified and reported to the proper authorities.

Once a referral is received, the APS provider is responsible for assessing the adult's needs and risk of harm, which may also require coordination with law enforcement and other agencies. Where the APS provider determines that services (e.g., counseling; coordination of services delivery, such as Meals on Wheels; securing alternative living arrangements) are necessary, they must take action to provide the services voluntarily, and services should be as least restrictive as possible. OCFS' policy requires APS providers to sufficiently document the assessment of the client's needs, their due diligence in helping the client obtain services, and if services were not warranted, the reasons why. To ensure that APS activities meet State standards, the Bureau conducts Practice Reviews (Reviews) of each APS provider.

OCFS uses two systems to record APS referrals and monitor APS providers' actions: Adult Protective Services Net (APSNNet) for New York City referrals and Adult Services Automation Project (ASAP) for ROS referrals. According to APSNet and ASAP data, for the period April 1, 2017 through December 31, 2020, New York City received 102,687 unique referrals (i.e., excluding duplicate referrals of the same individual), and the ROS received 82,995 unique referrals.

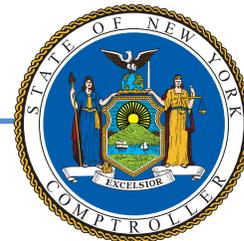
¹ Makaroun, L. K., Bachrach, R. L., & Rosland, A.-M. (2020, August). Elder abuse in the time of COVID-19 – Increased risks for older adults and their caregivers. *American Journal of Geriatric Psychiatry*, 28(8), 876-880.

Key Findings

- OCFS does not effectively monitor APS providers and their activities to ensure vulnerable adults are protected and receive the services they need. While OCFS had established processes, as well as policies and procedures, to review APS activities, it does not always ensure these processes are being executed as required. For instance, we found that, for a sample of Reviews—which Bureau management stated they rely on to help them determine the training and technical assistance needs of a given APS provider—many were not conducted timely, did not contain all required information critical to an accurate assessment, and lacked documentation that deficiencies were followed up on. Further, the policies and procedures lacked explicit guidance on critical aspects of the Review process, including the target time frames for conducting Reviews (i.e., every 3–4 years), the follow-up of APS providers regarding deficiencies and program improvement plans, and documentation of these efforts.
- Generally, APS providers' case file documentation for referrals sufficiently explained clients' risks and needs, supported their assessment to either open or close a referral, and supported the need for the specific services provided to the clients. However, progress notes were not always entered into the case files within the required 30-day time frame and thus may not have captured the most accurate or detailed record of client events to ensure that APS activities and services are appropriate and that clients' needs are being met.

Key Recommendations

- Revise existing policies and procedures to include written guidance on the frequency of Reviews as well as practices for following up on and documenting that deficiencies have been corrected.
- Work with APS providers to improve case file documentation, including ensuring case notes are sufficiently detailed and entered timely to ensure that required visits are made to adequately assess the needs of the clients.



**Office of the New York State Comptroller
Division of State Government Accountability**

November 17, 2021

Sheila J. Poole
Commissioner
Office of Children and Family Services
52 Washington Street
Rensselaer, NY12144

Dear Commissioner Poole:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Oversight of Adult Protective Services Programs*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
APS	Adult Protective Services	<i>Key Term</i>
APSNet	Adult Protective Services Net	<i>System</i>
APS provider	57 county Local Districts of Social Services and the St. Regis Mohawk Tribe Department of Human Services, responsible for APS referrals outside of New York City (rest of State), and 10 field offices and/or contractors in New York City, responsible for APS referrals in the five boroughs	<i>Key Term</i>
ASAP	Adult Services Automation Project	<i>System</i>
Bureau	Bureau of Adult Services	<i>Bureau</i>
OCFS	Office of Children and Family Services	<i>Auditee</i>
Review	Practice Review	<i>Key Term</i>
ROS	Rest of State (all areas of the State outside the five boroughs)	<i>Key Term</i>

Background

The Office of Children and Family Services (OCFS) is charged with promoting the well-being and safety of the State's children, families, and communities. Toward this end, OCFS oversees Adult Protective Services (APS) – a program of State-mandated services for adults (over age 18) who, because of mental or physical impairments, are unable to meet their essential needs (e.g., food, shelter, clothing, medical care); are in need of protection from abuse, neglect, financial exploitation, or other harm; and have no one available who is willing and able to assist them responsibly. Within OCFS, the Bureau of Adult Services (Bureau) is responsible for the oversight of APS statewide. Services provided range from safety monitoring, linkages with other service providers (e.g., health, mental health, aging), and assistance in obtaining benefits to informal money management and court petitions to appoint a guardian or other legal intervention.

According to research published in 2020,² every year about 1 in 10 older adults (age ≥ 60 years) in the United States experiences elder abuse, including physical, sexual, or psychological abuse, as well as financial exploitation or neglect by caregivers. Elder abuse also often goes undetected; only 1 in 24 cases are identified and reported to the proper authorities. Furthermore, public policy measures related to COVID-19 and their downstream mental health consequences likely increase the risk of elder abuse.

OCFS' network of APS providers includes 57 county Local Districts of Social Services and the St. Regis Mohawk Tribe Department of Human Services, responsible for addressing APS referrals outside of New York City (rest of State, or ROS). In New York City, there are 10 field offices and/or contractors responsible for addressing APS referrals in the five boroughs. (Hereafter, these entities are collectively referred to as APS providers.)

Anyone may make a referral. Often referrals are received from family members, health care providers, bank employees, or neighbors. APS providers may receive referrals directly, or referrals may be forwarded from OCFS. OCFS receives referrals through a call center it maintains; the call center can also provide general information on APS in addition to forwarding calls to the correct APS provider. Generally, the number of referrals has remained relatively consistent from April 2017 through December 2020, averaging about 2,500 a month in New York City and 1,800 a month for the ROS. However, during the COVID-19 pandemic, referrals dropped significantly, with both New York City and the ROS averaging about 1,500 a month from March 2020 through December 2020 (see Exhibit).

Although APS providers are responsible for handling APS referrals, there is no single way referrals are required to be reported or recorded; therefore, other entities such as not-for-profits or other State agencies may also receive APS referrals. OCFS uses two systems to record APS referrals and monitor APS providers' actions: Adult Protective Services Net (APSNet) for New York City referrals and Adult Services Automation Project (ASAP) for ROS referrals.

² Makaroun, L. K., Bachrach, R. L., & Rosland, A.-M. (2020, August). Elder abuse in the time of COVID-19 – Increased risks for older adults and their caregivers. *American Journal of Geriatric Psychiatry*, 28(8), 876-880.

When an APS provider receives a referral, it initially categorizes the referral as either life threatening (circumstances that may result in death or irreparable harm if emergency action is not taken) or non-life threatening. For life-threatening referrals, the APS provider must start an investigation and attempt contact with the adult within 24 hours. For non-life-threatening referrals, the APS provider must start an investigation within 72 hours and attempt contact within 3 business days.

Once a referral is received, the APS provider is responsible for assessing the adult's needs and risk of harm, which may also require coordination with law enforcement and other agencies. APS providers may determine that services (e.g., counseling; coordination of services delivery, such as Meals on Wheels; securing alternative living arrangements) are necessary. However, generally, clients must be willing to accept services offered and APS providers should ensure that services be as least restrictive as possible. Where adults are found to be at imminent risk of death or serious physical harm, and do not understand the consequences of their situation, judicial proceedings may be required.

OCFS' policy requires APS providers to sufficiently document the assessment of the client's needs, their due diligence in helping the client obtain services, and if services were not warranted, the reasons why. Among other details, documentation, including progress notes, should cite the following: initial referral information, including when the referral was received; any case investigation information and assessments; determination of services; service plans; any information related to in-person or other contacts; where services are denied, the reasons why; and an explanation for closing the referral. Further, progress notes are required to be sufficiently detailed to understand each action taken and must be entered in the case file within 30 days of the event.

To ensure that APS activities meet State standards, the Bureau conducts Practice Reviews (Reviews) of each APS provider, which, according to OCFS management, should be completed every 3 to 4 years. According to OCFS policy, each Review must document general information such as: the period of review, number of referrals received during the review period; number of referrals that were withdrawn at intake; number of referrals that were closed at intake; number of referrals that are currently open and being assessed; and number of referrals that are currently ongoing cases. According to OCFS' most recently updated policies, the case-specific information that Reviews should also cover includes:

- Intake signoffs/eligibility decisions
- First home visit made within required time frames
- Timeliness of assessments and service plans
- Service plan is complete (risks identified and appropriate services arranged)
- Progress notes (frequency and quality)
- Monthly home visits/contacts

- Client/referral source notifications
- Eligibility notices
- Application for services

Upon completion of the Review, the Bureau informs the APS provider of its findings. For a Review with lesser findings, the Bureau follows up with the APS provider at a later date to determine if the deficiencies have been corrected. As of November 2019, OCFS updated its procedures such that, where the Review findings are significant, the Bureau requires the APS provider to submit a program improvement plan to address the deficiencies identified, and may assist the APS provider in developing the plan.

According to APSNet and ASAP data, for the period April 1, 2017 through December 31, 2020, New York City received 102,687 unique referrals (i.e., excluding duplicate referrals of the same individual), and the ROS received 82,995 referrals. As shown in the table below, for this period, the predominant reasons for referral were mental illness, eviction and homelessness, and inability to manage finances.

APS Risk Summary for Referrals Received 4/1/2017–12/31/2020*

Type of Risk	NYC	ROS	Combined Totals
Mentally ill	70,241	7,486	77,727
Eviction/homelessness	45,657	2,072	47,729
Unable to manage finances	35,319	3,272	38,591
Neglects own basic needs	25,226	3,747	28,973
Environmental hazards	26,072	2,460	28,532
Poor housing conditions	16,283	2,522	18,805
Financial or other exploitation	15,189	2,197	17,386
Neglect by caregiver	15,261	1,411	16,672
Dementia	7,074	6,123	13,197
Psychological abuse	10,979	618	11,597
Self-endangering behaviors	5,747	1,956	7,703
Physical abuse	6,171	512	6,683
Untreated medical conditions	2,097	2,147	4,244
Drugs or alcohol	2,378	1,446	3,824
Sexual abuse	556	55	611

*A referral may have more than one type of risk associated with it; therefore, risk totals for both NYC and ROS will not equal their referral totals.

Audit Findings and Recommendations

OCFS does not effectively monitor APS providers and their activities to ensure vulnerable adults are better protected and receive the services they need. While OCFS had established policies and procedures to review APS activities, they lack explicit guidance on critical aspects of its Review process such as the follow-up of APS providers regarding deficiencies and program improvement plans. Further, OCFS does not always ensure the established processes to review APS activities are being executed as required. For instance, we found that, for a sample of Reviews—which Bureau management stated they rely on to help them determine the training and technical assistance needs of a given APS provider—many were not conducted timely, did not contain all required information critical to an accurate assessment, and lacked documentation that any deficiencies were followed up on. Of the 20 Reviews we examined, 13 (65%) were not completed within at least a 4-year time frame, and for one APS provider that had been offering APS in New York City for 7 years, no Review had ever been completed. As a result, OCFS has less assurance that its APS providers are addressing clients' needs appropriately and in a timely manner.

Generally, APS providers' case file documentation for referrals sufficiently explained clients' risks and needs, supported their assessment to either open or close a referral, and supported the need for the specific services provided to the clients. However, progress notes were not always entered into the case files within the required 30-day time frame and thus may not have captured the most accurate or detailed record of client events to ensure that APS activities and services are appropriate and that clients' needs are being met. While progress notes are not the only documentation reviewed to determine necessity of services, they provide crucial information related to the client—conditions and circumstances that might not be captured elsewhere.

During our review, we found issues with the Staten Island field office's documentation, as did OCFS during a Review in 2017. However, OCFS officials did not follow up on these deficiencies to ensure they were corrected.

We also found that the data in ASAP—the system of record for ROS referrals—is not always accurate and may not be complete (i.e., missing referral information), reducing its usefulness to OCFS and APS providers as a monitoring tool. Additionally, 1,659 referral dates were out of sequence (i.e., based on the date the referral occurred, each should have had a different number assigned) by at least 4 days because staff either entered the wrong dates or entered them late. If referral dates are entered incorrectly or are entered late and the system does not capture the referral, OCFS officials may not know the referral exists and cannot monitor progress with that case.

Deficiencies Among Practice Reviews

Policies and procedures help ensure that management directives are carried out effectively and as intended. OCFS' written policies and procedures for Reviews lack explicit guidance on critical aspects of its Review process, including the target time

frames for conducting Reviews (i.e., every 3–4 years), the follow-up of APS providers regarding deficiencies and program improvement plans, and documentation of these efforts. Furthermore, although OCFS' latest policies identify items to be included in the Review, the Bureau does not have a process for verifying that Reviews are complete and contain all the required details. Reviews that are untimely, that omit required details, and that lack follow-up diminish OCFS' ability to monitor APS providers' compliance with State requirements and ensure clients obtain the services they need.

We found the Bureau is not conducting timely Reviews, nor does it ensure that Reviews contain all necessary information and that staff properly follow up on noted deficiencies or on required corrective actions by APS providers. For a sample of 20 Reviews, selected from among the group of 68 that were most recently conducted (as of July 2020), we determined 13 were late (i.e., exceeding the maximum of 4 years since the last Review)—on average, 5.67 years—including one APS provider that had not received a Review for over 7 years. Also, we found the Bureau omitted another APS provider from its Review schedule and thus never conducted a Review of that APS provider's performance.

We found Reviews were missing required information that is important for proper oversight. For example:

- Thirteen did not include the number of referrals that were currently open and being assessed.
- Ten did not include the number of referrals that were withdrawn at intake.
- Six did not include the number of referrals that were currently ongoing cases.
- Three Reviews did not specify the period reviewed.
- Three did not include the number of referrals that were closed at intake.
- One did not include the number of referrals that were received during the review period.

Additionally, we found that two Reviews required the APS provider to create program improvement plans, which were submitted. However, for three other Reviews, the Bureau informed the APS provider that it would be following up on the deficiencies noted; however, the Bureau did not have any documentation to support that the follow-up was done. OCFS thus has no assurance that these deficiencies have been corrected. For those three cases, OCFS officials stated that the deficiencies were followed up on through emails and telephone calls but claimed the records of these communications had since been deleted. OCFS also did not require the APS provider to submit documentation supporting that deficiencies had been corrected.

In May 2021, we received an updated list of Reviews and determined that five of the 13 overdue Reviews cited earlier have since been completed and an additional five Reviews were in progress. Also, in response to our audit, OCFS initiated a Review of the omitted APS provider in September 2020.

Case File Deficiencies

For 61 referrals at 12 APS providers, we reviewed the case files in their entirety to determine if staff properly documented their assessment of client needs, their due diligence to assist the client in receiving needed services, the progress made with each referral, the number of client contacts, and if services were determined to not be warranted, the reason(s) why. For 11 of the 12 APS providers, we determined staff properly documented their actions in each of these areas. We also found that, for 56 referrals, the case file documentation sufficiently explained the client's risks and needs. These 56 files supported the assessments to either open or close a referral for APS and supported the need for specific services provided to the client. We also found the service plans were documented when required and actions were taken when deemed appropriate.

We did, however, identify issues with various aspects of APS providers' progress notes. Per OCFS policy, progress notes are necessary for assessing the success of APS activities and serve as the basis for determining future need. To ensure that events are accurately recollected and recorded, progress notes should be entered into the case file timely. Delays can result in facts being missed or misremembered, diminishing the APS provider's ability to properly manage cases, including potentially causing individuals in need to be overlooked for APS services. Also, detailed progress notes are essential for continuity of care in the event new staff are assigned to the case.

We found APS providers generally started investigations and made contacts with clients within required time frames; however, APS providers did not always comply with the 30-day time frame for entering progress notes into case files. For nine referrals at five APS providers, progress notes were entered late, ranging from 4 to 380 days. Further, while the progress notes were entered late only occasionally for some of these cases, for others the progress notes were consistently entered late. Also, for one APS provider, we could not determine the timeliness of its progress notes because it did not record entry dates.

At the Staten Island field office, we found, for all five of its referrals in our sample, the case file documentation did not contain sufficient detail to document that actions taken on the client's case were appropriate. For example, one progress note, regarding the client's needs assessment, simply stated, "Caseworker assessed the client," and contained no other details or conclusions. While the details available for each individual case will differ, progress notes must contain enough details to sufficiently illustrate the client's needs and progress and guide subsequent APS activity appropriately. Another case involved a referral that was closed because the referred individual could not be located. While the progress notes stated that several of the referred person's family members were contacted, they did not document any details about those conversations or the number of people they spoke to. Another case file contained no progress notes for home visits. Sufficiently detailed progress notes are critical to an APS case. Progress notes should provide a chronological overview of important activities and events during the review of an APS case and,

further, may be used during legal proceedings to secure services. Without sufficient detail, OCFS has limited assurance that caseworkers are performing their job duties, including making required visits and adequately assessing clients' needs.

OCFS completed a Review of the Staten Island field office in May 2017 and found similar deficiencies, including case visits, collateral contacts, and monthly visits, that were not appropriately documented. The Bureau's Review letter to this field office stated, "This created the appearance that required visits/contacts were not being made." At that time, OCFS made recommendations to encourage staff to further expand on the progress notes to provide a detailed summary, but did not follow up to ensure the deficiencies were corrected. OCFS officials stated they would work with the Staten Island field office to improve case file documentation going forward.

Reliability of ASAP Data

OCFS uses its systems data to monitor and track specific APS activities, such as timeliness of case review signoffs, and to review case-specific referral information. However, we found that the data in ASAP is not always accurate or complete, lessening its usefulness as a monitoring tool. OCFS has not designed processes to test for data accuracy or completeness, and there are no edit checks built into the system to assist with data quality and flag discrepancies or potential errors.

Also, OCFS has not issued guidance to its APS providers on when certain dates (e.g., the date a referral is received) should be entered in the system to ensure all referral data is consistent and current.

For the period of April 1, 2017 through December 31, 2020, there were 82,995 referrals for the ROS. However, the data OCFS initially provided accounted for just 79,929 referrals—a difference of 3,066 (after removing 682 referrals that we later determined were outside our scope period).

We selected a sample of 25 of the missing referral numbers to determine if OCFS could locate information on these cases. OCFS officials were able to locate information on 24 of the referrals, as follows:

- Fifteen were closed at intake;
- Six were closed at assessment;
- Two were withdrawn at intake by the referral source; and
- One was closed after receiving services.

For the remaining referral, OCFS officials could not locate any information in their system, nor did they have any information in their files for the case and could not explain the reason.

In responding to the overall discrepancy, OCFS officials stated that the 3,066 cases were likely unintentionally dropped when executing their query and combining data tables to meet our request for information. However, as of August 2021, OCFS

officials have not provided the data query language they used, nor have they explained what caused the data to be dropped, despite our numerous requests. Therefore, we cannot verify whether this explanation is accurate or whether ASAP is missing actual referral information.

We also found that 1,659 referral dates were out of sequence (i.e., based on the date the referral occurred, each should have had a different number assigned) by at least 4 days because staff either entered the wrong date or entered the date late. This can cause the system to not capture the referral for certain OCFS reports. The referral date starts the time period for when the initial visits must take place, when an assessment is due, and when service plans need to be updated. For example, at one APS provider, there were nine cases with referral received dates between November 16, 2020 and November 20, 2020 that were entered 5 to 9 days after the referrals were received—and 68 of the 1,659 referrals had dates entered incorrectly by more than 90 days. If referral dates are entered incorrectly or are entered late and the system does not capture the referral, OCFS officials may not know the referral exists and cannot monitor progress with that case.

Recommendations

1. Revise existing policies and procedures to include written guidance on the frequency of Reviews as well as practices for following up on and documenting that deficiencies have been corrected.
2. Work with APS providers to improve case file documentation, including ensuring case notes are sufficiently detailed and entered timely to ensure that required visits are made to adequately assess the needs of the clients.
3. Develop processes to improve the reliability and consistency of ASAP data, and communicate consistent expectations on when and how to enter information into the system, including but not limited to referral dates.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine if OCFS adequately monitors APS activities to protect vulnerable adults. The audit covered referrals received for the period from April 2017 through December 2020 and the relevant work completed through April 2021.

To accomplish our objective, we became familiar with and assessed the adequacy of internal controls related to our audit objective. We interviewed OCFS officials and requested APS providers answer questionnaires in lieu of interviews. We reviewed relevant laws, regulations, policies, and procedures. We selected a judgmental sample of 20 of the 68 Reviews completed by the Bureau as of July 2020 for review; this selection was based on those Reviews that were overdue and those areas with a high elderly population in the county. We asked OCFS for all the most recent Reviews as of July 2020; the oldest Review was completed April 2013.

We selected a judgmental sample of 12 APS providers (seven Local Districts of Social Services offices, three field offices, and two contractors) with a higher percentage of cases of APS risk categories totaling 77,762 of 182,616 referrals for the period April 2017 through December 2020. For each, we selected a judgmental sample of five referrals (and one extra case at one APS provider selected to satisfy terms of our site visit protocols) for a total of 61 referrals of the 182,616 referrals with complete data received for ROS and New York City. Cases were selected based on APS risk categories that we considered to be of the highest risk and included open ongoing cases, cases closed at intake, and cases closed after receiving services.

The results of the judgmental samples we selected cannot be projected to the populations as a whole.

We reviewed information on referrals from both ASAP and APSNet. We found the information contained in APSNet to be sufficiently reliable for our audit purposes. However, we found the information in ASAP may be incomplete and inaccurate and have disclosed this in the body of our report. For ASAP data where we could not fully determine reliability, we relied more heavily on corroborating evidence, such as hard copy files, to support our findings to further limit our reliance on the data. We selected a random sample of 25 of 3,066 missing case file numbers from ASAP to determine if the data was complete and if the files could be located.

Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct this independent audit of OCFS' oversight of APS programs.

Reporting Requirements

We provided a draft copy of this report to OCFS officials for their review and written comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of it. Our responses to certain OCFS comments are included in the report's State Comptroller's Comments. OCFS officials agreed with the report's recommendations and indicated actions they have begun to take to implement them.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Children and Family Services shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Exhibit

Referrals Received for the Period April 1, 2017 Through December 31, 2020

Period	NYC		ROS	
	Total	Average per Month	Total	Average per Month
Partial year 2017 (Apr–Dec 2017)	22,177	2,464	16,447	1,827
Calendar year 2018	30,666	2,556	22,271	1,856
Calendar year 2019	30,227	2,519	22,305	1,859
Calendar year 2020	19,617	1,635	18,906	1,576
COVID-19 pandemic (Mar–Dec 2020)	14,701	1,470	15,345	1,535

Agency Comments



Office of Children
and Family Services

KATHY HOCHUL
Governor

SHEILA J. POOLE
Commissioner

September 23, 2021

Nadine Morrell, Audit Director
Office of the State Comptroller
State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Re: Audit 2020-S-2 Draft Report:

Dear Director Morrell,

The New York State Office of Children and Family Services (OCFS) has prepared this letter in response to the Office of the State Comptroller's (OSC) August 2021 Draft Report for Audit 2020-S-2 (draft report). OSC's stated objective was to determine whether OCFS adequately monitors Adult Protective Services (APS) activities to protect vulnerable adults. The audit covered referrals received for the period from April 2017 through December 2020 and the relevant work completed through March 2021. OCFS agrees with the recommendations listed within the draft report and, prior to its release, the OCFS Bureau of Adult Services (BAS) initiated strategies to address all recommendations.

OSC has two key findings. The first is that "OCFS does not effectively monitor APS providers and their activities to ensure vulnerable adults are protected and receive the services they need." (Report at page 2). OCFS contends that it is adequately monitoring APS activities provided by the Local Departments of Social Services (LDSSs). OSC further provides that "[w]hile OCFS has established processes... it does not always ensure these processes are being executed as required." OSC further states that "many (case reviews) were not conducted timely." (Report at page 2). BAS provided documentation to OSC that demonstrated that the structured timeframe to initiate a review every three to four years had not been established prior to December 2019; however, OSC improperly applied that standard to the entire scope of the audit (2017 – 2020) and incorrectly deduced that the reviews were not being timely conducted.

Furthermore, OSC omitted OCFS practices, procedures, and protocols shared during the audit which establish consistent technical assistance and support to LDSS APS outside of case reviews. OCFS provided OSC with the Tasks and Standards of BAS staff responsible for direct oversight and support of LDSSs and the 2019 version of the Division Oversight and Monitoring At-A-Glance document. Both documents denote the requirement of OCFS to facilitate regional meetings for APS supervisors across the state. These regional meetings serve to help standardize responses across the State on the frequent and complex issues facing LDSS APS units. In addition, OCFS provided a list of dates for 42 regional meetings that occurred during the period under review.

[Comment 1](#)

[Comment 2](#)

OCFS does acknowledge OSC's concerns relevant to one of our regional offices (Staten Island office) regarding cases that were included in the audit sample and led to the first key finding. (Report at pages 11-12). A strategy meeting was held with Staten Island supervisors and NYC Human Resources Administration (HRA) management directly responsible for oversight of the Staten Island office. The meeting revealed that supervisors in the Staten Island office were fully apprised of the case details and aware of decisions made through supervisory and case consultation sessions. However, the case documentation did not sufficiently reflect these details. A program improvement plan (PIP) to address case documentation has been submitted by HRA and approved by OCFS.

OCFS also recognizes a second factor that played into OSC's first finding, which indicated the data within the Adult Services Automation Project (ASAP.Net) may not always be accurate or complete. Throughout the course of the audit, OCFS consistently stated that there was no single report that existed by which to address all the data elements requested by OSC. The development of the final data report created numerous coding challenges and identified gaps within the current system. OCFS plans improvements that will correct those challenges and include internal controls barriers to prevent any "ghost" case numbers from being generated with no case related data to support the existence of a case number. OCFS will also provide guidance and training to LDSSs on data entry expectations.

Finally, as OSC noted throughout the period under review, OCFS continuously worked to update its internal oversight procedures, pilot those draft procedures, and modify internal processes and policies to standardize BAS oversight practices. OCFS has developed clear timeframes in the policies and procedures for reviews as well as follow-up on PIPs. OSC noted that during the period under review, OCFS had completed five of the 13 overdue practice reviews, with an additional five reviews in process. (Report at page 10). Since the May 2021 update to OSC, OCFS has completed 11 practice reviews, nine of those addressing the original 13 overdues. Seven practice reviews are in process, four of which address the remaining overdues.

The second key OSC finding supports the first and notes that "progress notes were not always entered into the case files within the required 30-day time frame." (Report at page 2). OSC's concern over progress notes is overstated as best exemplified by the audit. OSC reviewed case files for 61 referrals at 12 APS providers. They determined that for 11 of the 12 APS providers (92%), "staff properly documented their assessment of client needs, their due diligence to assist the client in receiving needed services, the progress made with each referral, the number of client contacts, and if services were determined to not be warranted, the reason(s) why." (Report at page 11). They also determined that for 56 referrals (92%), the case file documentation: 1) sufficiently explained the client's risks and needs, 2) supported the assessments to either open or close a referral for APS, and 3) supported the need for specific services provided to the client. (Report at page 2). In addition, OSC found that the "service plans were documented when required and actions were taken when deemed appropriate." (Report at page 2).

OCFS is committed to strengthening and improving its policies on case reviews, data systems, and guidance to the LDSSs. The timely completion of case reviews and, when necessary, developing a practice improvement plan with LDSS APS, is foundational for BAS. OCFS disagrees with any suggestion that it fails to provide adequate supervision of the LDSS APS program. OCFS diligently monitors APS

[Comment 3](#)

activities through several methods of oversight, including communication, document review, meetings, and offering technical assistance.

OCFS appreciates the opportunity to respond to OSC's draft report and the opportunity to provide further clarity on the final report. If you have any questions regarding this response, please contact Brendan Schaefer, Director of Internal Audit by email at Brendan.Schaefer@ocfs.ny.gov, or by phone at 518-402-3985.

Sincerely,



Lisa Ghartey Ogundimu, Esq.
Deputy Commissioner
Division of Child Welfare and Community Services

cc: Heather Pratt, State Examiner IV, NYS Office of the State Comptroller

State Comptroller's Comments

1. As noted in OCFS' response and in our audit report, OCFS had not established a written policy or procedure to guide the frequency of case reviews. However, in a meeting with OCFS officials, they stated that a case review time frame of every 3 to 4 years was the general, albeit undocumented, practice. Therefore, we applied this 3- to 4-year time frame established by OCFS as a reasonable practice for case reviews conducted during our scope period, which began April 2017. Further, we presented officials with preliminary reports applying this practice across our scope and they expressed no such concern at that time.
2. While OCFS provided us with dates for these regional meetings, they could not provide any documentation, such as meeting minutes, to show who attended the meetings or what was discussed. Therefore, we could not conclude on the effectiveness of these meetings as a monitoring function.
3. While we found other APS providers in our sample did maintain adequate case notes, this finding is troubling due to the inadequacy of the case notes across the entire Staten Island field office. As stated in the report on page 12, OCFS' own Review of the Staten Island field office in 2017 identified these same issues, and stated concerns that this office was not performing the required visits and contacts. These issues were not corrected, in part, because OCFS failed to follow up with the Staten Island office to ensure the issues were addressed.

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