

**Children, Families, Health and Human Services Interim Committee  
September 14, 2015**

**Adult Protective Services**

**Senior and Long Term Care Division  
Department of Public Health and Human Services**

**WHAT ARE ADULT PROTECTIVE SERVICES:**

Adult Protective Services (APS) are provided through Senior and Long Term Care (SLTC); a Division of the Montana Department of Public Health and Human Services (DPHHS) to reduce or remove the risk of physical or mental harm that has occurred or is occurring to a person as a result of abuse, neglect, or exploitation.

These services are provided to person age 60 years old or older; or adult persons who are physically or mentally disabled and adults with intellectual disabilities hereinafter referred to as vulnerable adults who are at risk of abuse, sexual abuse, neglect, or exploitation.

The primary responsibility for Adult Protective Services is to protect vulnerable adults from abuse, neglect and exploitation including, but not limited to the following:

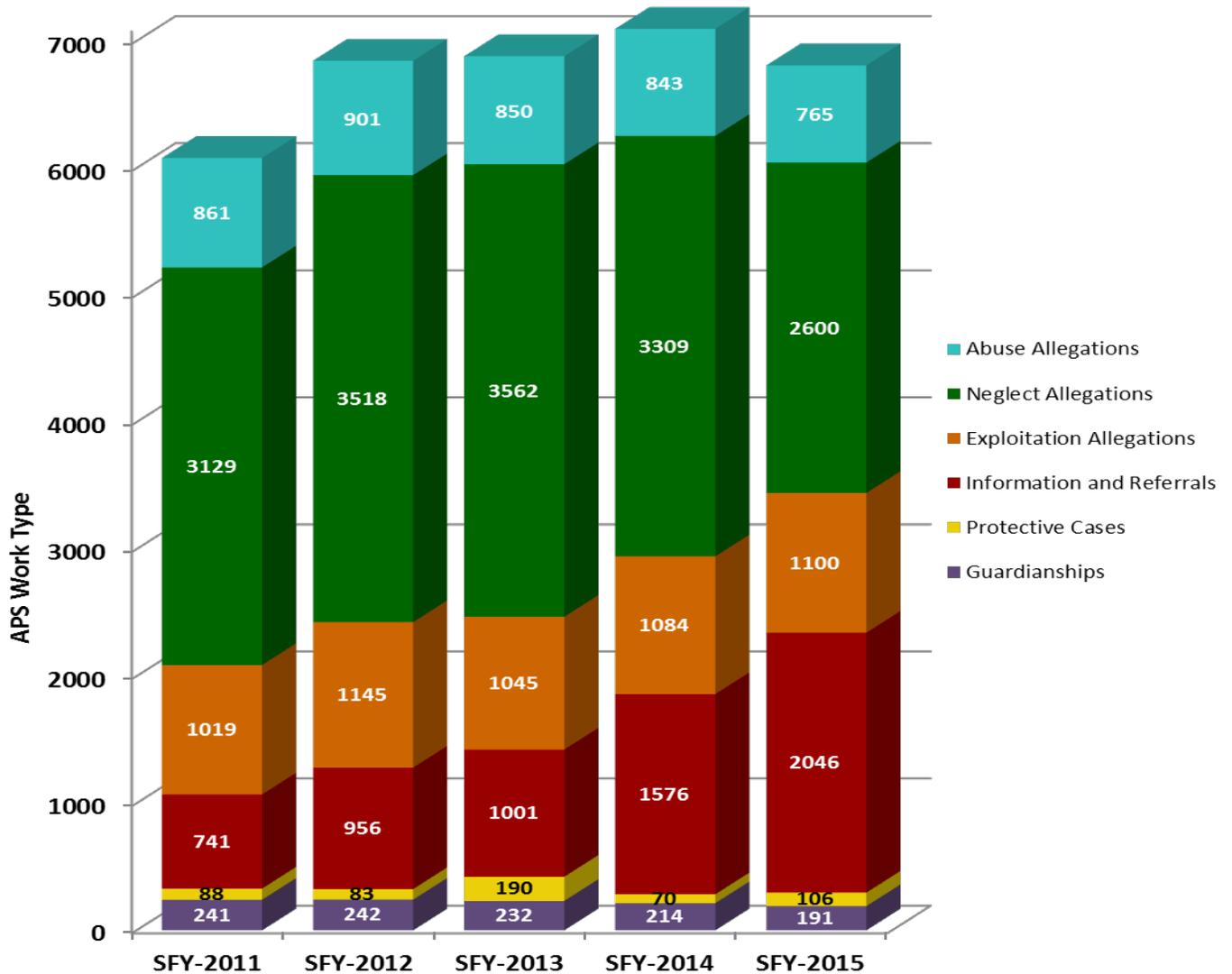
- Receiving reports of abuse, neglect or exploitation
- Conducting investigations of allegations of abuse, neglect or exploitation
- Evaluating vulnerable adults risk and capacity to agree to services
- Developing a case plan in cooperation with the vulnerable adult, including end of life decision making and arranging for ongoing support services from other state, county and local agencies when appropriate
- Arranging for services or making referrals for services to local and state agencies
- Intervening to stop abuse, neglect or exploitation if it is occurring
- Coordinating activities among state and county agencies which provide human services and working with law enforcement if there is evidence of suspected criminal activity
- Monitoring services and periodic re-evaluation of potential risk factors
- Working with tribal entities on protective services
- Educating professionals and the public regarding issues related to the prevention of abuse, neglect and exploitation
- Assuming the role of court-ordered guardian as agency of last resort, for vulnerable adults who are unable to do so themselves
- Assisting and consulting in the development of prevention programs and entities to provide necessary guardianship to individuals in the least restrictive environment available
- Providing temporary, emergency assistance, purchased through contingency funds authorized by the legislature, to vulnerable adults in need

**APS WORKLOAD AND STAFFING RESOURCES:**

There are **33.25 FTE** adult protection specialist; and **6 FTE** supervisors located across the 56 counties in the state of Montana divided into 6 regions (Miles City, Great Falls, Billings, Helena, Missoula and Kalispell) who have the duty to investigate allegations of abuse, neglect and exploitation of vulnerable adults, provide assistance to vulnerable adults in the community and provide support and monitoring for

protective services to the vulnerable adults of Montana in addition to being the agent for the state guardianships.

During fiscal year **2015**, Adult Protective Services investigated 4,465 reports of abuse, neglect or exploitation. Received 2,046 calls for assistance, and managed 106 cases for protective services. In addition, Adult Protective Services is the guardian for 191 vulnerable adults in Montana. Adult Protective Services are mandated under Montana Law, but expenditures for the program are limited to the biennial appropriations established by the legislature. Total funding spent on Adult Protective Services in fiscal year 2015 was approximately \$2.7 million which is funded at approximately 4% federal funds and 96% state general funds.



APS Work Type	SFY-2011	SFY-2012	SFY-2013	SFY-2014	SFY-2015
Abuse Allegations	861 14%	901 13%	850 12%	843 12%	765 11%
Neglect Allegations	3129 51%	3518 51%	3562 52%	3309 47%	2600 38%
Exploitation Allegations	1019 17%	1145 17%	1045 15%	1084 15%	1100 16%
Information and Referrals	741 12%	956 14%	1001 15%	1576 22%	2046 30%
Protective Cases	88 1%	83 1%	190 3%	70 1%	106 2%
Guardianships	241 4%	242 4%	232 3%	214 3%	191 3%
<b>Total APS Workload</b>	<b>6079 100%</b>	<b>6845 100%</b>	<b>6880 100%</b>	<b>7096 100%</b>	<b>6808 100%</b>

## **INCREASE NEED FOR GUARDINSHIPS:**

The number of vulnerable adults living in Montana communities has grown rapidly over the past few years increasing the complexity and the demand for the services provided by Adult Protective Services workers.

Montana is aging at a faster rate than most of the other States in the Union. The 2010 U.S. Census showed that Montana's 65 and older population was at 13.4% while the United States is at 12.1%. By 2011, Montana's 65 and older population had already increased to 15.1%. Over the next 18 years, 12,775 Montanans will turn age 65 every year. U.S census projections indicated that by 2030, Montana is expected to rank at least 5th in the Nation in the percentage of people over the age of 65. Montanans are also living longer; currently there are 175 centenarians in Montana based on the 2010 census. Addressing the needs of an aging Montana will continue to be an issue over the next 15 to 20 years."

In addition to the rising numbers of the elderly population we are also faced with increased awareness of mental illness, intellectual disabilities and military service related disabilities. With the better understanding of mental illness, intellectual disabilities and military service related disabilities this will impact the resources of each community and the need for more guardianships and/or conservatorships.

## **GUARDIANSHIPS UNDER APS:**

Adult Protective Services requires the following four criteria be met before Adult Protective Services would pursue any guardianship of a vulnerable adult.

- 1) The vulnerable adult is Intellectually Disabled or elderly and,
- 2) The vulnerable adult refuses voluntary services, and
- 3) There is reasonable grounds to believe the vulnerable adult lacks capacity, and
- 4) The vulnerable adult is at substantial risk of physical harm or death secondary to abuse, neglect and exploitation.

There are several ways in which Adult Protective Services may become involved in guardianship proceedings.

- Through the course of an abuse, neglect or exploitation investigation
- As a last resort when the court determines there is no other person or entity to be the guardian
- Through referrals from other entities such as hospitals, nursing homes, assisted living, mental/behavioral health facilities or other programs that believe a person needs a guardian to receive services
- As court visitor
  - A visitor is, with respect to guardianship proceedings, a person who is trained in law, nursing, social work, medical care, mental health care, pastoral care, education, or rehabilitation and is an officer, employee, or special appointee of the court with no personal interest in the proceedings. As part of the guardianship process, the court will order a neutral person to evaluate the client, the petitioner, and make a recommendation concerning the appropriateness of guardianship. Such a person is called a court visitor.

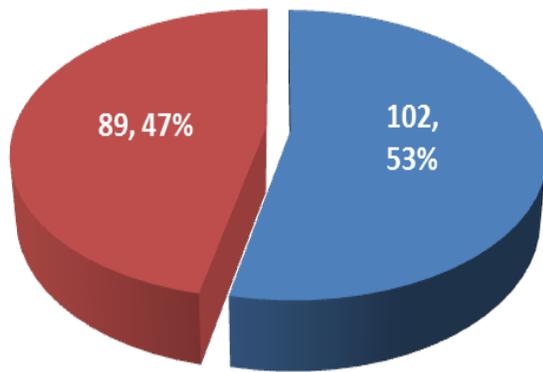
Adult Protective Services while serving in the role of a guardian is required to use best professional judgment to determine the extent of the contact and visitation of the ward. However, general principles in determining ward visitation are as follows:

- If ward resides in a certified, licensed nursing home or a less structured environment (i.e. Licensed Group Home, Assisted Living Facility) the Adult Protection Specialist will have physical

visitation at least twice a year and phone contacts every ninety (90) days with the ward, nursing home staff, Social Worker, Director of Nursing, Physician or Ombudsman

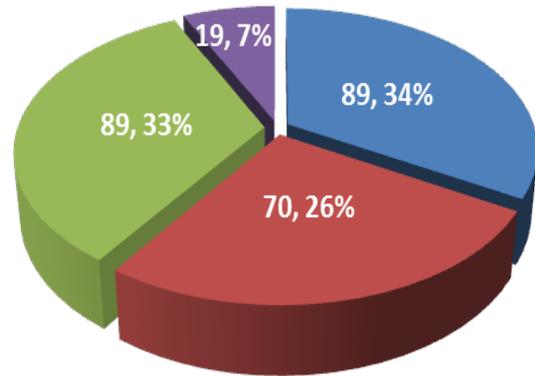
- For the purpose of decisions making, such as, for placement decisions
- To provide the court with the annual report on the health and welfare of the vulnerable adult
- To meet with the treatment team to help with the course of any treatment issues, medications or changes in placement

**2015 Guardianship Gender Totals**



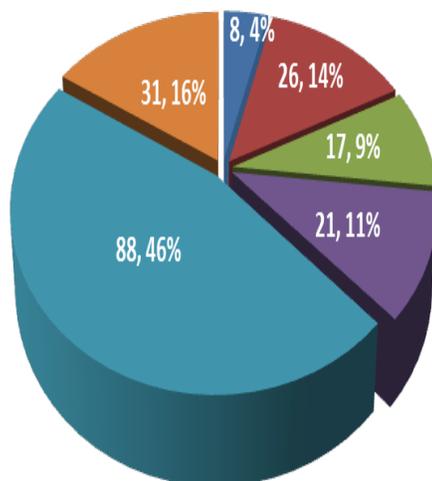
■ Female ■ Male

**2015 Guardianship Disability Totals**



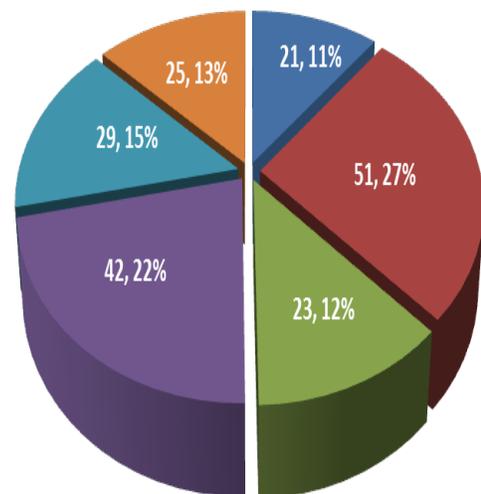
■ Intellectually Disability ■ Disability ■ Elderly ■ Other

**2015 Guardianship Region Totals**



■ Miles City ■ Great Falls ■ Billings ■ Helena ■ Missoula ■ Kalispell

**2015 Guardianship Age Range Totals**



■ 18-39 ■ 40-59 ■ 60-65 ■ 66-75 ■ 76-84 ■ 85 and older

## **ISSUES ENCOUNTERED WITH CURRENT GUARDIANSHIP PROCESSES:**

- As the Agency that is designated to investigate the abuse, neglect and exploitation of vulnerable adults; there becomes a conflict when Adult Protective Services is asked to serve in the role of guardian as well as investigator
- When a court visitor is needed, the court oftentimes is looking to Adult Protective Services as a court visitor, which can sometimes create a conflict
- There is an assumption in the general public that if an adult has negative behavioral issues or a mental health or intellectual diagnoses that Adult Protective Services should be designated as a guardian – even when the person has not been determined by a court to lack capacity
- There is reluctance in some Counties to pursue, on any level, a guardianship for adults
- Some Counties will only pursue guardianship petitions if Adult Protective Services is the appointed guardian
- Some Counties will not pursue a petition for guardianship if the case appears as if it will be contested
- Lack of availability of legal counsel for the vulnerable adult – affordability for private attorney
- Lack of standardized education, training and support for those who wish to be a guardian regarding duties and responsibilities if appointed
- Lack of standardized education and training for community members on process for pursuing a guardianship, as well as, lack of understanding of alternative options that may be more appropriate, such as power of attorney or conservatorships in lieu of guardianships
- Lack of standardized education and training for the Courts and attorneys on guardianship procedures
- Lack of standardized reporting processes that are required to the courts for mental, medical and financial reporting on an annual basis
- Lack of oversight of vulnerable adults who have a court appointed guardian and for the courts who appoint guardians – Adult Protective Services could be the oversight entity in some cases, if not for Adult Protective Services being placed in the role of guardian.
- Lack of technology systems to create an information system to track information on all guardianships/conservatorships in the State of Montana, cases of potential abuse, status of required reports, who the appointed guardian is and status of each case
- Lack of Private persons or entities to serve as guardian; private entities or persons often will only assume the role of guardian for persons who has financial resources, are in a nursing home or an assisted living placement, and pose no behavioral problems