

# **ADULT SERVICES**

## **ADULT PROTECTIVE SERVICES:**

APS is a mandated service provided by local Social Services districts. It involves intake, investigation, and assessment of referrals of abuse, neglect, and financial exploitation of impaired vulnerable adults who live in the community. APS workers develop services plans for eligible clients to remedy physical abuse, sexual abuse, emotional abuse, neglect, financial exploitation, or to address unmet, essential needs of adults.

APS serves adults (age 18 and older) who, due to physical or mental impairments are unable to protect themselves from abuse, neglect, financial exploitation, or other harm, and have no one available who is willing and able to assist responsibly.

Services provided (directly or through referral) may range from safety monitoring, linkages with other service providers (health, mental health, aging, etc.), assistance in obtaining benefits, informal money management, to appointment as a representative payee, to petitioning a court for appointment as a guardian or for some other legal intervention.

## **THE CONCEPT OF SELF-DETERMINATION:**

Adults, unlike children, are legally presumed to have capacity to make their own decisions. This is the concept of self-determination. This means that most adults, even most vulnerable adults who may have impairments and who may be facing danger, have the right to refuse offered services. This is why it is best practice for an APS worker to carefully and gently engage the client to try to make a connection and to offer services to protect the client from harm. It is sometimes difficult for other providers and the concerned public to understand that APS must respect the right of an adult with capacity to refuse help offered by APS and others. APS seeks, to the extent possible, the provision of services that maximize an individual's independence, freedom, and decision-making ability. This includes assistance to enable clients to remain in, or return to, the community, as opposed to a more institutional setting.

## **SEEKING INVOLUNTARY INTERVENTIONS:**

APS has a unique responsibility to seek to protect vulnerable adults who appear to lack the capacity to protect themselves. When APS believes 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 impairments, APS has a responsibility to pursue appropriate legal interventions to protect the individual, even if the vulnerable adult has not agreed to, or opposes such intervention. However, APS must employ the least restrictive intervention necessary to effectively protect the adult (see below). The decision to seek an involuntary intervention should never be taken lightly.

It is important to note that APS itself has no legal authority on its own to remove any person from their home or other setting, or to take any involuntary action. APS must request action from

the court or some other official authorized to take involuntary action (e.g., law enforcement, mental health or developmental disabilities officials).

#### **THE LEAST RESTRICTIVE ALTERNATIVE:**

The U.S. Supreme Court stated in *Shelton vs. Tucker*, 364 U.S. 479 (1960): "Even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved." In cases when an involuntary protective services intervention is considered – for example, for a guardianship or a civil commitment – both APS and the court should inquire whether there are any less restrictive alternatives that will adequately protect the needs of the vulnerable adult. This concept is written into the Social Services Law and the Mental Hygiene Law of the State of New York.