

# Maltreatment Report

This report combines information about reports and investigation of alleged maltreatment of both vulnerable adults under Minnesota Statutes, section 626.557, and maltreatment of minors under Minnesota Statutes, section 626.556 in DHS licensed programs.

This report covers fiscal years 2008, 2009, and 2010.

## Licensing Division

December 2010



## **COST OF PREPARING THE REPORT**

The cost of preparing this report is provided to comply with the requirements of Minnesota Statutes, section 3.197, which states:

**3.197 Required reports.** A report to the legislature must contain, at the beginning of the report, the cost of preparing the report, including any costs incurred by another agency or another level of government.

This report was prepared by staff from the Department of Human Services, Division of Licensing. No outside consultants assisted in the development of this report.

It took approximately 100 hours of staff time to prepare the report. Based on an estimate of \$40 per hour for salaries and benefits, staff costs for preparing the report were \$4,000. The cost of printing and distributing 17 copies of the report is minimal. Therefore, the total cost of preparing, printing, and distributing this report is estimated to be \$4,000.

The report will also be available to the public on the Department of Human Services, Division of Licensing web site (<http://www.dhs.state.mn.us.licensing/>).

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## LEGISLATIVE DIRECTIVE

Minnesota Statutes, section 626.557, requires DHS to annually report to the Legislature and the Governor information about alleged maltreatment in licensed facilities. Minnesota Statutes, section 626.557, subdivision 12b, paragraph (e), states:

The commissioners of health and human services shall each annually report to the legislature and the governor on the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations. The report shall identify:

- (1) whether and where backlogs of cases result in a failure to conform with statutory time frames;
- (2) where adequate coverage requires additional appropriations and staffing; and
- (3) any other trends that affect the safety of vulnerable adults.

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## **EXECUTIVE SUMMARY**

The focus of this report is the investigation of maltreatment in the Department of Human Services (DHS) directly licensed programs (approximately 4,000 licensed programs) and adult foster care (approximately 4,800 licensed programs). Adult foster care is licensed by DHS, however, except for investigating maltreatment and issuing licensing sanctions, the monitoring and oversight responsibilities for adult foster care has been delegated to the counties under Minnesota Statutes, section 245A.16. Data in this report covers an eight-year period from FY03 to FY10 and combines information about reports and investigation of alleged maltreatment of both vulnerable adults under Minnesota Statutes, section 626.557 as well as maltreatment of minors under Minnesota Statutes, section 626.556 in DHS licensed programs.

This report provides information for the years FY03 through FY10, and represents the required reports for FY08, FY09, and FY10.

### **Purpose**

This report is issued as required by Minnesota Statutes, section 626.557, subdivision 12b, paragraph (e), which directs the Commissioner to report on the following:

- (1) whether and where backlogs of cases result in a failure to conform with statutory time frames;
- (2) where adequate coverage requires additional appropriations and staffing; and
- (3) any other trends that affect the safety of vulnerable adults.

In general terms, the report identifies the number and type of reports of alleged maltreatment involving licensed facilities reported to DHS, the number of those requiring investigation, and the resolution of those investigations.

### **General Trends**

- On average, an investigator can complete approximately 40 maltreatment investigations per year.
- The number of reports received by DHS regarding possible or alleged maltreatment is generally increasing.
- The overall trend regarding substantiated maltreatment is one of decreasing abuse, increasing neglect, and fairly consistent findings of financial exploitation.
- In FY10, 856 reports were completed with 198 reports substantiated, which is approximately 23 percent of the completed reports. Eighty-six individuals were disqualified from providing direct contact services in licensed programs due to

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- serious or recurring maltreatment findings for investigations completed in FY10. On average, individuals were disqualified following 10 percent of the investigations, and in 43 percent of the cases that substantiated maltreatment.
- In FY09, 1,045 reports were completed with 267 reports substantiated, which is approximately 26 percent of the completed reports. Eighty-seven individuals were disqualified from providing direct contact services in licensed programs due to serious or recurring maltreatment findings for investigations completed in FY09. On average, individuals were disqualified following eight percent of the investigations, and in 33 percent of the cases that substantiated maltreatment.
  - In FY08, 947 reports were completed with 263 reports substantiated, which is approximately 28 percent of the completed reports. Ninety individuals were disqualified from providing direct contact services in licensed programs due to serious or recurring maltreatment findings for investigations completed in FY08. On average, individuals were disqualified following 10 percent of the investigations, and in 34 percent of the cases that substantiated maltreatment.
  - In FY10, 49 licensing sanctions were issued following maltreatment investigations. This compares with 69 actions taken in FY09 and 82 actions taken in FY08.
  - Timeliness of average completion of investigations continues to fluctuate, due in part to the continued completion of older pending investigations. The percentage of investigations completed within 60 days in FY10 rose to 38 percent, which is the highest percentage ever completed in that category. Also, the percentage completed in over 120 days decreased to 46 percent, which is the lowest percentage ever reported for that category. The average length of time to complete a maltreatment investigation in FY10 was 4.65 months.
  - In FY10, the number of reports assigned for field investigation totaled 883 reports, a decrease over the previous year. It is likely that some of the decrease was due to efforts to resolve reports received through means other than an on-site investigation. For example, when a vulnerable adult's belongings or money was not returned to the vulnerable adult after the vulnerable adult moved, persons involved were contacted and arrangements made for the return of the vulnerable adult's property without an on-site investigation of possible financial exploitation being conducted.
  - The 883 maltreatment and death reports that were assigned for field investigation included 1,093 allegations of maltreatment and 132 allegations of licensing violations. When a report includes allegations of both maltreatment and licensing violations the report is assigned for a maltreatment field investigation.

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- In FY10, 86 percent of reports assigned for field investigation involved a vulnerable adult and 14 percent involved a child.

### **Issues Affecting DHS Output**

DHS continues to centralize functions and standardize criteria for conducting initial investigation of reports of alleged maltreatment. Using standardized criteria in the intake process allows reports that present the greatest harm or greatest risk of harm to be assigned a higher priority for field investigation.

In FY06 a Hay study was conducted to evaluate the position description and responsibilities of a maltreatment investigator which resulted in the investigator position being reclassified at a higher level of compensation. This change has reduced staff turnover, which has had a positive impact on the number and timeliness of completed investigations.

In FY09 the DHS, Aging and Adult Services Division, implemented a state wide system where reports of maltreatment of adults are taken electronically by the county common entry points and then sent electronically to DHS and other lead investigation agencies.

If current staffing levels for maltreatment investigations are maintained, DHS will continue to improve on the number of maltreatment investigations completed and the timeliness of those investigations.

DHS continues to be committed to the effective and efficient utilization of resources, the thorough and objective investigation of reports of alleged maltreatment, and timely actions to prevent recurrence of maltreatment.



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**I. INTRODUCTION AND BACKGROUND**

The Department of Human Services (DHS), in partnership with counties, licenses approximately 24,100 service providers and monitors and investigates their compliance with Minnesota laws and rules. The purpose of licensing is to protect the health, safety, rights and well-being of those receiving services by requiring that providers meet minimum standards of care and physical environment. Licensed programs serve thousands of people in child care centers, adolescent group homes, adult day care centers, day training and habilitation programs, and residential and outpatient programs for people with chemical dependency, mental illness or developmental disabilities. The focus of this report is the investigation of maltreatment in DHS directly licensed and monitored programs (approximately 4,000 licensed programs) and in adult foster care homes (approximately 4,800 licensed programs). Except for investigating maltreatment and issuing licensing sanctions, the monitoring and oversight responsibilities for adult foster care has been delegated to the counties under Minnesota Statutes, section 245A.16.

Data in this report covers an eight-year period from FY03 to FY10 and combines information about reports and investigation of alleged maltreatment of both vulnerable adults under Minnesota Statutes, section 626.557 as well as maltreatment of minors under Minnesota Statutes, section 626.556 in DHS licensed programs. This report represents the required reports for FY08, FY09, and FY10.

The statutes most relevant to the investigation of maltreatment are:

- Minnesota Statutes: section 626.557, the Reporting of Maltreatment of Vulnerable Adults Act (VAA)
- Minnesota Statutes, section 626.556, the Reporting of Maltreatment of Minors Act (MOMA)
- Minnesota Statutes, chapter 245A, the Human Service Licensing Act (HSLA)
- Minnesota Statutes, Chapter 245C, the Human Services Background Study Act.

From 1995 to the present there have been significant changes to both the VAA and the MOMA. One of these changes made DHS the sole agency responsible for investigating reports of maltreatment in DHS directly licensed programs and in adult foster care homes.

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Except for adults in outpatient chemical dependency treatment programs and adults in DHS' two sexual psychopathic personality treatment programs, all adults served in DHS licensed programs are categorically "vulnerable adults" under the VAA

Over time, statutory changes have increased the complexity of maltreatment investigations by initiating an appeal process and requiring extensive notifications of decisions made and actions taken. Because statutory background study requirements direct DHS to disqualify people from providing direct contact service when they are found responsible for serious or recurring maltreatment, the changes have also addressed standards for determining who was responsible for maltreatment. Today each investigation must determine:

- what actually happened;
- whether the event met the definition of maltreatment;
- whether an individual or facility was responsible for substantiated maltreatment;
- whether the maltreatment committed by an individual was serious and/or recurring;
- whether action was necessary to reduce the chance of recurrence of the event to protect the health and safety of vulnerable adults and children; and
- whether further action is required by DHS related to the facility or the individual alleged perpetrator.

The complexity of investigations requires an extensive training period for new investigators and limits the number of investigations each investigator can adequately complete. Most investigations include a visit to the program, and since DHS investigators are based in St. Paul, they must travel to other part of the state as necessary. Typical investigations require numerous interviews and the careful review of a variety of documents. After a maltreatment determination is made, investigators are also involved in reviewing appeals and preparing for and testifying at appeal hearings. Based on all of these duties, a trained investigator can complete approximately 40 investigations per year.

## **II. CURRENT STATUS AND TRENDS**

### **A. Reports investigated**

Reports of maltreatment are received from county staff members, family members of vulnerable adults and children, staff members of licensed programs, other professionals working with people receiving services, and community persons.

The number of reports of suspected maltreatment of vulnerable adults and children received by DHS has generally increased over time.

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When initial reports are received, many of the reports do not include adequate information for DHS to determine the harm or risk of harm that is presented to the vulnerable adult or child by the reported events or conditions, or whether the issue reported represents maltreatment or a licensing violation. Additional information is frequently obtained by in-office investigation and, if that information indicates harm or a high risk of harm to the vulnerable adults or children affected, and the report appears to meet the statutory definition of maltreatment, then the report is assigned for field investigation. Each report begins with a review of DHS data to determine if there is any history available on the vulnerable adult or child, the facility, or the staff person involved.

Each report involving the death of a vulnerable adult or child is immediately assigned for initial investigation.

For reports involving systemic licensing issues, the report may be assigned for a licensing field investigation.

The numbers of assigned and completed investigations in this report refers only to reports assigned for maltreatment field investigation and reports involving the death of a vulnerable adult or child. An investigation is only completed when the investigation memorandum required in statute is written, and all required notices of the findings have been issued. (This report does not address the resolution of reports assigned for investigation of alleged licensing violations with no allegation of maltreatment.)

See **Figure 1** for an overview of reports received, reports receiving telephone/office or field investigations, reports completed, and reports substantiated.

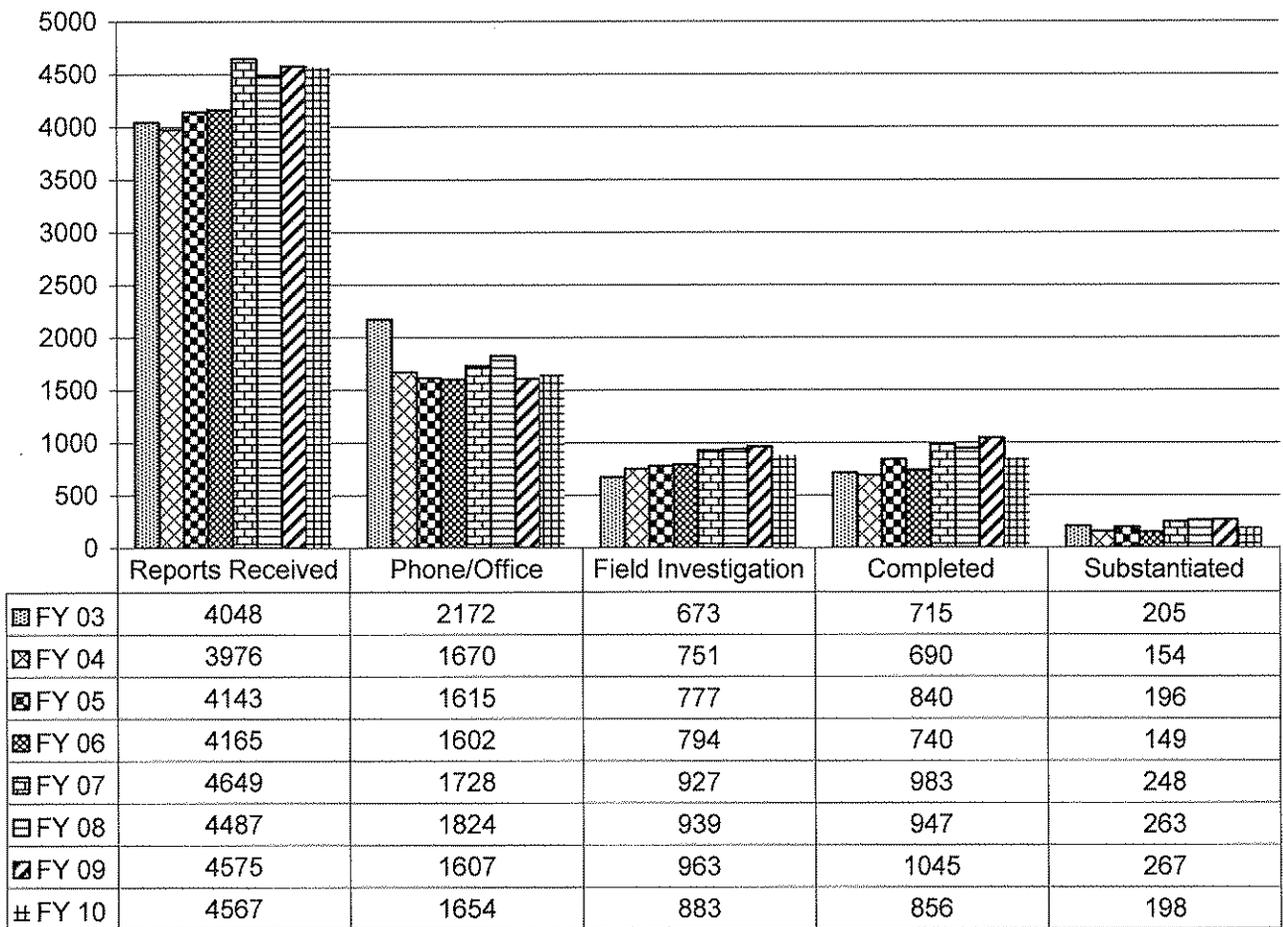
- The number of reports receiving a telephone/office investigation has ranged between 1,600 and 2,200 per year over the last eight years.
- The number of reports assigned for maltreatment field investigations decreased in FY10 for the first decrease in eight years.
- In FY10 there were 856 investigations completed. A decrease from the previous year. Some of the decrease is likely due to time spent resolving issues without a field investigation, increased travel time, and commitment of some staff resources to quality assurance.

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Although not shown in figure 1, the number of pending investigations has been decreasing since FY06. There were 535 investigations pending in FY06 and there were 420 pending at the end of FY10.

There is also a trend of more reports received and assigned for investigation from outside of the metro area. A review of reports assigned for investigation that occurred out of the metro area has grown from 40 percent in FY03 to 55 percent in FY10. In FY10 more reports of maltreatment were assigned for field investigation outside the metro area than within the metro area - 483 and 400 respectively. In FY09, the numbers were 460 outside the metro area and 492 within the metro area.

**Figure 1 Maltreatment and Abuse Reports and Investigations by Fiscal Year**



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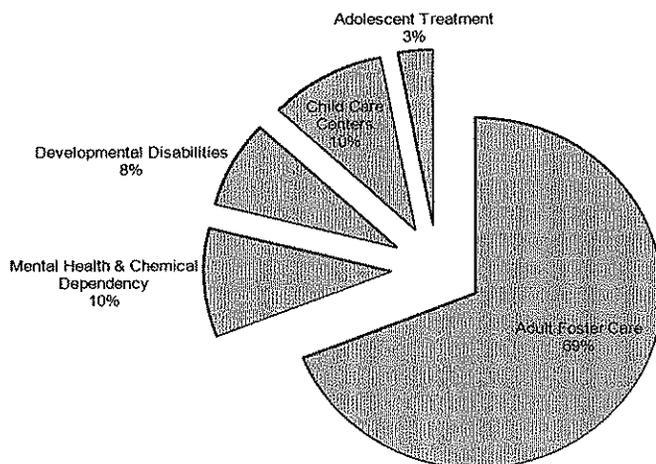
**B. Type of program/vulnerability of victim**

In FY10, 86 percent of reports assigned for field investigation involved a vulnerable adult and 14 percent involved a child.

There is also an increasing trend of more reports being assigned for investigation in adult foster care locations, both in total number and as a percentage of all reports assigned. In FY07, 523 reports were assigned for investigation or approximately 56 percent of all reports assigned. In FY10, 620 reports were assigned or approximately 69 percent of all reports.

**Figure 2** is a pie chart that shows the types of programs where victims of reports assigned for field investigation received services in FY10.

**Figure 2 Type of Programs Where Victim of Reports Assigned for Investigation Received Services (FY 10)**



**III. RESOLUTION OF INVESTIGATIONS**

**Determinations:** Under the maltreatment reporting and investigations statutes and under the licensing statutes, various types of resolutions are possible at different stages of the investigation. These include an initial determination, a

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determination of whether maltreatment occurred, and a determination as to whether action is necessary to decrease the risk of recurrence of maltreatment.

**A. Initial Determinations**

After an initial investigation to obtain information regarding the vulnerable adult or child, the facility, and the staff person(s) involved, one of five possible determinations is made:

- no jurisdiction because the event did not occur in a DHS licensed program;
- further investigation is not necessary because the event does not meet a statutory definition of maltreatment and does not represent a possible licensing violation;
- in some limited cases further investigation is not necessary because of low risk (the vulnerable adult or child was not physically injured and risk of injury is low because the facility took action to reduce the risk of recurrence);
- the report is assigned for licensing field investigation; or
- the report is assigned for maltreatment field investigation.

Due to the potential seriousness of reports involving the death of a child or vulnerable adult if maltreatment or licensing violations preceded or caused a death, all reports involving a death are immediately assigned to a senior investigator for an in-office investigation and, if information gathered indicates possible maltreatment, the report is assigned for a field investigation.

**B. Did Maltreatment Occur**

As stated previously, each report assigned for field investigation will result in a determination of whether or not maltreatment occurred. If maltreatment occurred there is a determination of whether an individual(s) or facility was responsible for the maltreatment, whether the maltreatment was serious and/or recurring, and whether any action was necessary to reduce the risk of recurrence.

One of two determinations is made for determinations of whether or not maltreatment of a child occurred: “maltreatment determined” or “maltreatment not determined.”

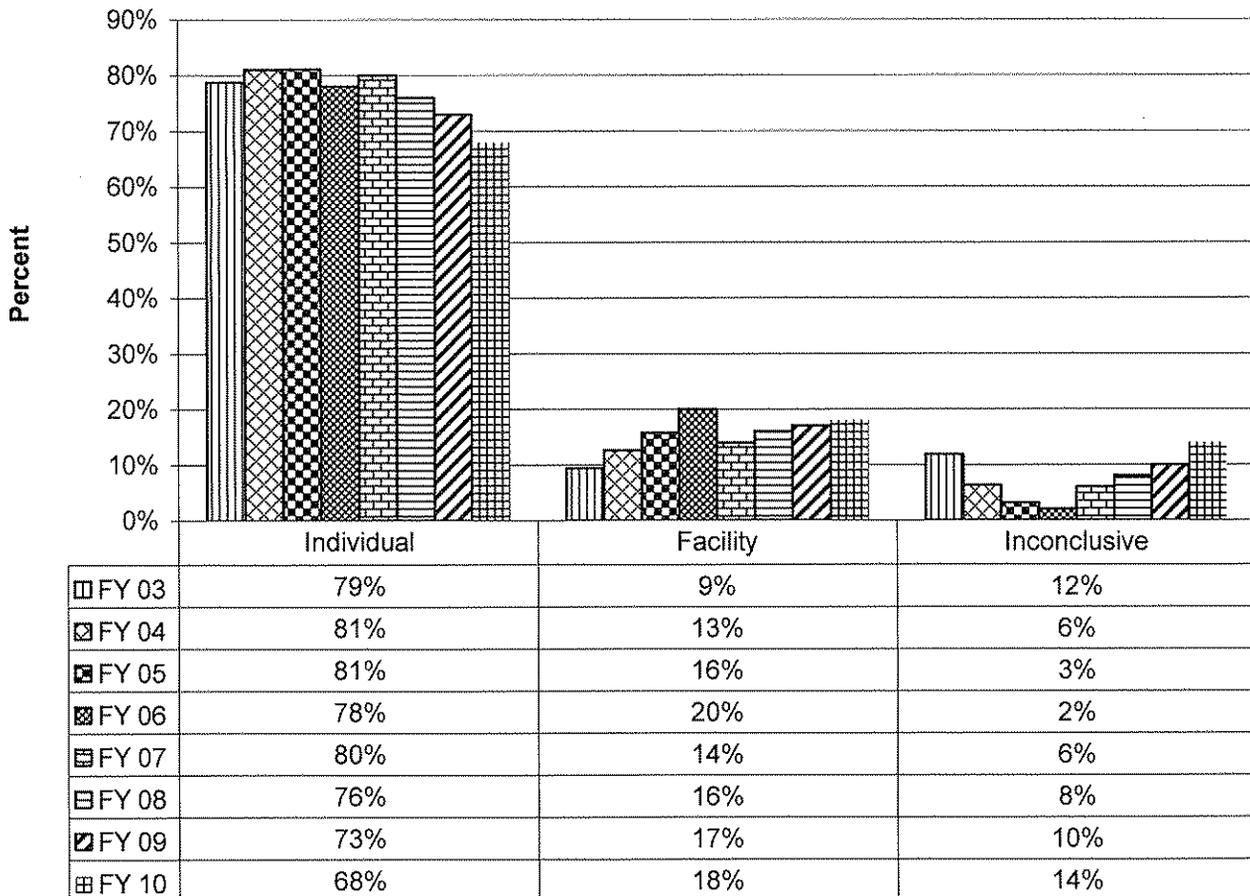
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One of four determinations is made for determinations of whether or not maltreatment of a vulnerable adult occurred: “substantiated,” “inconclusive,” “false,” or “no determination will be made.”

Between FY03 and FY10, the average percent of reports assigned for field investigation that were substantiated ranged from 20 to 29 percent.

**Figure 3** depicts data for the period from FY03 to FY10 showing the percent of substantiated maltreatment committed by an individual, a facility, or where a finding of inconclusive was made.

**Figure 3 Responsibility for Substantiated Maltreatment**

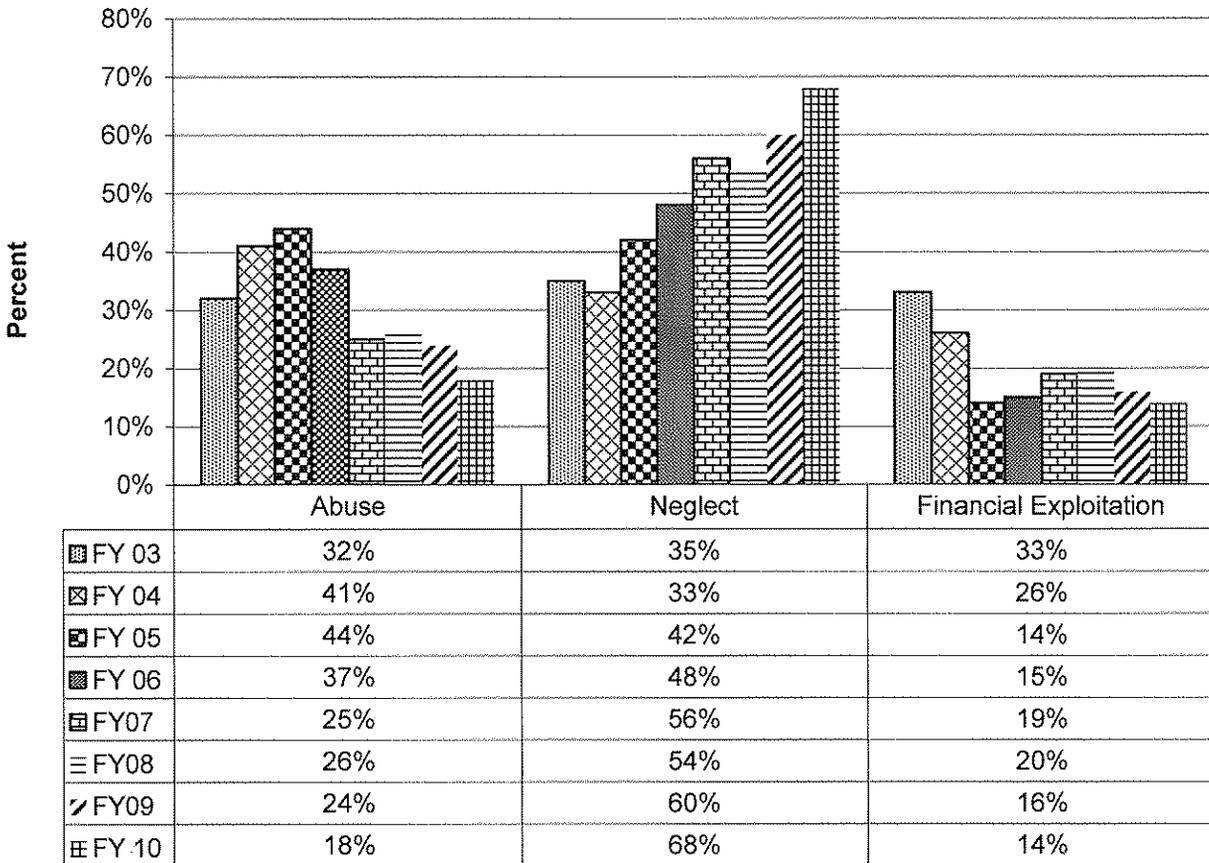


**Figure 4** shows the type of maltreatment. The overall trend is one of decreasing abuse, increasing neglect and fairly consistent findings of financial exploitation.

For FY10, abuse constituted 18 percent of the substantiated maltreatment, while neglect constituted 68 percent, and financial exploitation 14 percent.

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**Figure 4 VAA and MOMA Allegations Completed and Substantiated by Percent**



**C. Was Action Necessary to Decrease the Risk of Recurrence?**

The focus of this section is on the resolution of reports assigned for further investigation where DHS determined that maltreatment occurred, and investigations where there was a determination that some type of action was necessary to reduce the risk of recurrence. Possible actions taken by DHS to reduce the risk of recurrence of maltreatment are authorized under Minnesota Statutes, chapters 245A and 245C and include:

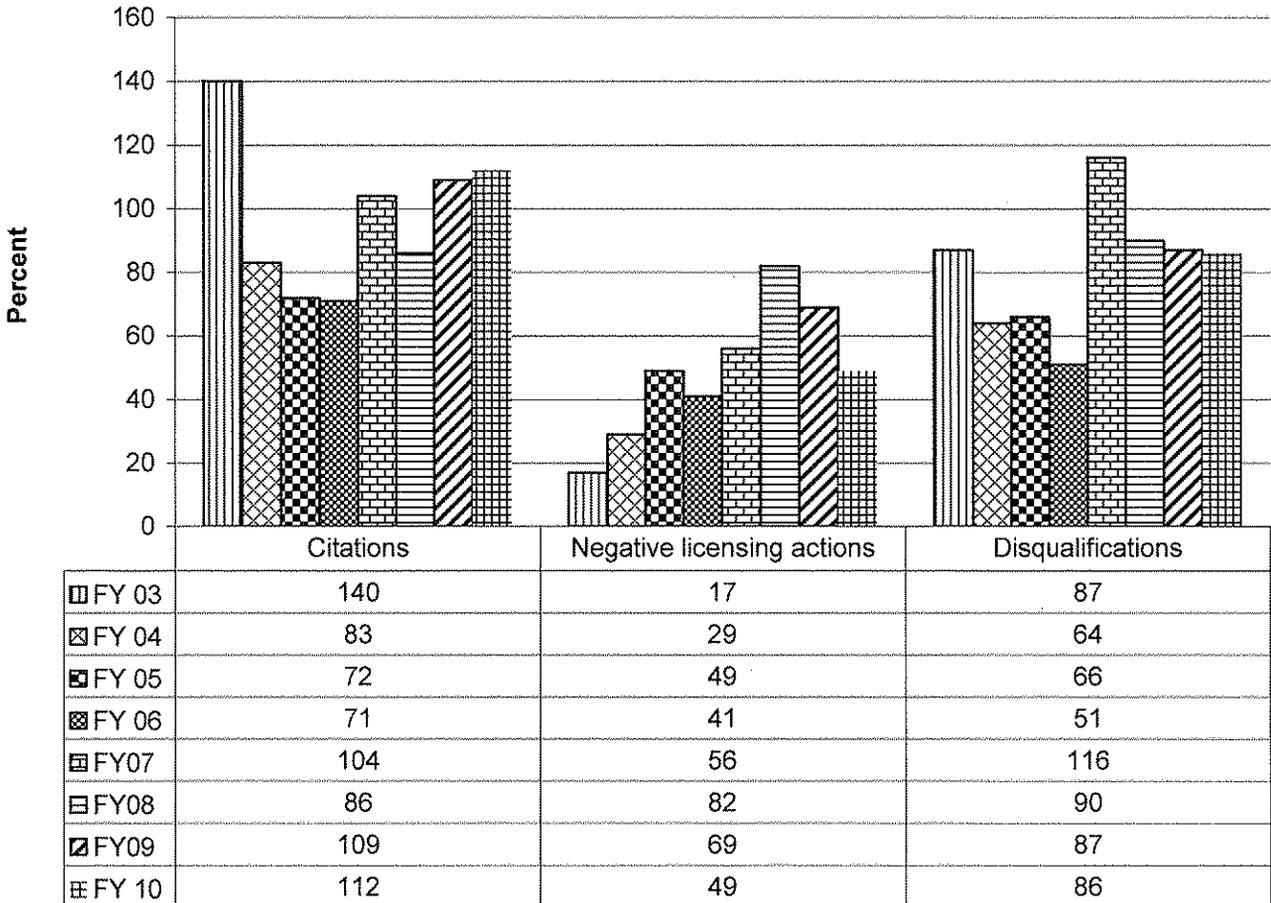
- disqualification of an individual from the provision of direct care to persons served in programs licensed by DHS, the Department of Health, the Department of Corrections, and Personal Care Provider Organizations;

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- issuance of a citation(s) ordering a facility to correct a licensing violation; or
- issuance of a negative licensing action (fine, conditional license, suspension or revocation of license).

See **Figure 5** for the actions taken by DHS following substantiated maltreatment.

**Figure 5 Number of actions taken following substantiated maltreatment**



**D. Timeliness of Investigations**

The percent of field investigations completed within 60 days has continued to increase going from 11 percent in FY03 to 38 percent in FY10. In addition, the percent of investigations taking more than 120

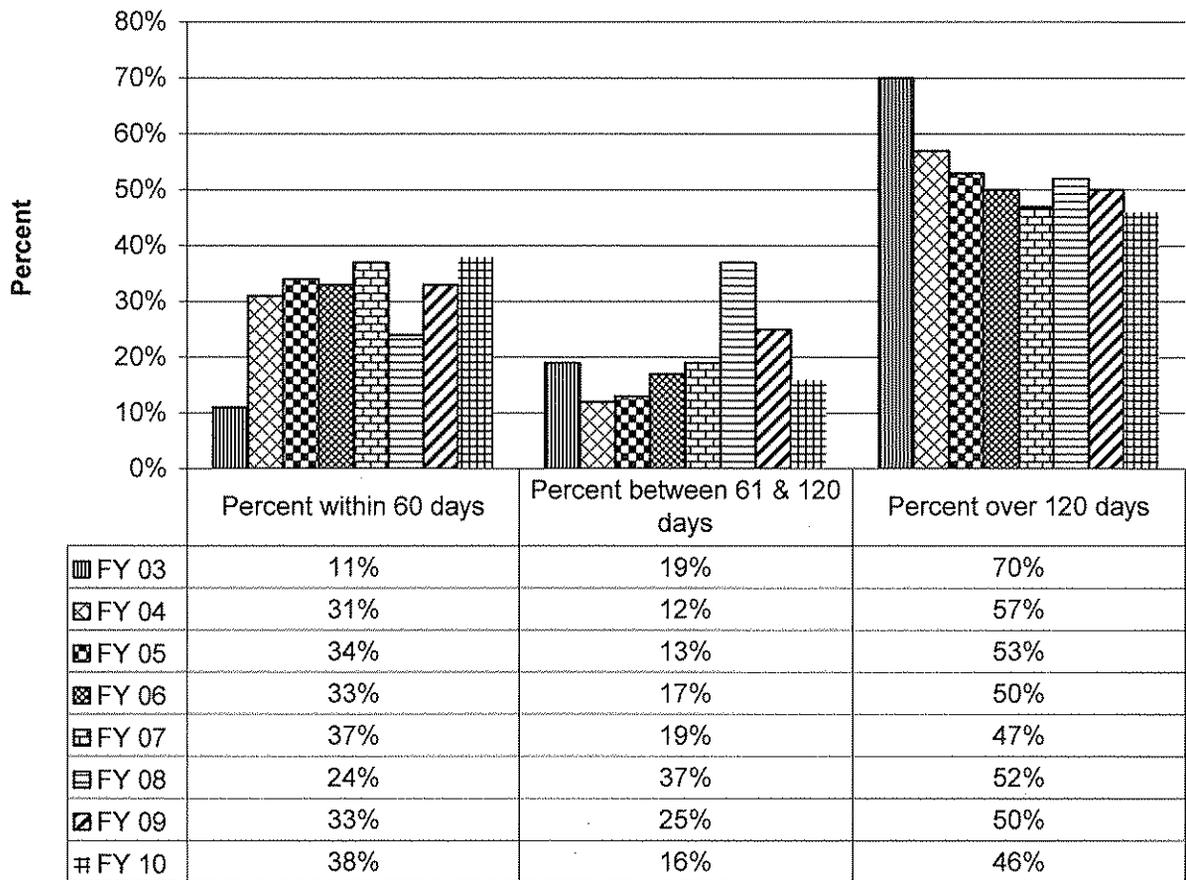
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days to complete has decreased from 70 percent in FY03 to 46 percent in FY10.

The average number of months to complete investigations has also declined from over 10 months in FY03 to 4.7 months in FY10.

See Figure 6 for a summary of investigations completed within certain timelines. This data continues to be challenged by the ongoing workload balances related to completion of the oldest investigations with the completion of the newest investigations.

**Figure 6 Maltreatment Investigations - Percent Completed within Various Timelines**



The number of pending investigations at end of FY10 was 420, an increase of 29 reports from FY09. Assuming minimal increase in the number of reports received and assigned for field investigation and minimal staff turnover, the maintenance of the current staffing level will

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provide for the gradual completion of pending investigations. Once pending investigations are completed, DHS will likely be able to meet statutory timeframes for completing many investigations.

**VI. WERE ADEQUATE COVERAGE REQUIRES ADDITIONAL APPROPRIATIONS AND STAFFING**

DHS Division of Licensing completed significant work to maximize the utilization of the increased resources received in FY02. This work included the centralization of report intake functions, restructuring of duties within the division, and the hiring of additional investigators. This centralized intake unit now receives, processes, assesses, and assigns all reports of alleged maltreatment, reports of deaths of consumers, and reports of licensing violations received by DHS. Additional computer system modifications and other technological solutions to enhance and standardize data collection for managing workflow and for performance reporting continue to be developed and refined.

Each report received is prioritized for investigation, according to standardized criteria, based on the potential risk of harm to vulnerable adults or children, and the reports with the greatest harm and/or highest risk of harm are assigned for field investigation first. This has generally resulted in:

- an increase in the number of reports assigned for maltreatment field investigation;
- a decrease in the number of non-maltreatment telephone investigations; and
- an increase in the number of completed field investigations of allegations of abuse and neglect, and a decrease in the number of completed investigations of financial exploitation.

The complexity of investigations and the number of non-metro area investigations is increasing and duties include defending decisions that are appealed. With the re-classification of the investigator position, the compensation is closer to the compensation of other investigator positions and has resulted in a decrease in staff turnover. With the existing resources, DHS should be able complete pending investigations, and respond to gradual increases in the number of reports received, that result in increases in initial investigations, office investigations, and field investigations.

DHS and the Division of Licensing remain committed to the effective and efficient utilization of resources, the thorough and objective investigation of reports of alleged maltreatment, and timely action to prevent recurrence of maltreatment.