

Developing Agency Policy on Mandatory Reporting of Elder Abuse

(For Program and Coalition Boards of Directors and Executive Directors)

Note: This fact sheet was adapted from a longer article by Jessica Mindlin, Esq., and Bonnie Brandl, MSW, entitled, “*Respecting Elders, Protecting Elders: Untangling the Mystery of What Sexual Assault Advocates Need to Know About the Mandatory Reporting of Elder Abuse*” published in **Reshape** (Spring 2011; no. 27).

Sexual assault and domestic violence programs and coalitions need to have comprehensive policies in place to assist and advise staff working with victims who may be subject to mandatory reporting laws. These policies should reflect a thorough understanding of both an individual advocate’s and an agency’s obligations. After reviewing and answering the questions below, sexual assault or domestic violence programs and coalitions may need to create new policies or modify existing policies on reporting suspected abuse. Some questions to consider while doing so include:

1. Who Decides Whether a Report is Mandated and Who Makes the Report?

- Who is responsible for reporting elder abuse? Is everyone in the program responsible or do the reporting requirements apply only to certain staff (*e.g.*, staff with professional licenses may be mandated reporters, while others are not)?
- If some employees or volunteers are mandated to report and others within the organization are not, how will a victim’s information remain private (*i.e.*, what kind of a “firewall” will be established) to ensure that a provider’s reporting obligations are not triggered inadvertently?
- Who decides if and when a report is made? Does direct line staff, the executive director or a team make this determination?
- Who contacts the agency to which the abuse must be reported



(typically adult protective services (APS) or law enforcement)? May any staff member call or does agency policy require that only the executive director or a supervisor report abuse?

- If line staff may report, must they inform the director or a supervisor that the report has been made?
- Ensure staff has information regarding the criminal or civil penalties for not reporting suspected elder abuse and whether a reporter can be held liable for filing a report in good faith, if it is unsubstantiated. (Laws vary as to whether there are civil or criminal penalties for failing to report. Penalties for failure to comply with a state's mandatory reporting requirements may include jail time, financial penalty, or both.)

2. Victim Involvement

- What are your internal procedures regarding victim involvement in the reporting process?
- When, how and who informs the victim if a report will be made?
- Is a victim always given the option to self-report?
- Do you allow the victim to be present when the report is made?

3. Timing of the Report

- When must a report be made? If the victim needs or is asking for time to get some affairs in order before a report is made, it may be possible to give the victim the time he or she needs before making a report. This may depend on what your statute requires. For example, some statutes require that a report be made "immediately" while others state "as soon as practicable" or a specific time frame (*e.g.*, "within 12 hours").
- Are there times that are better to make reports (for example, during regular business hours rather than on a weekend) and does your statute allow for this discretion?
- Regardless of when the report must be submitted, be sure to safety plan with and for the victim. Throughout the process, consider how the reporting process may increase the risk of harm to the victim.

4. The Investigation and Follow-Up

- If the victim wants to meet with APS at your agency, is this an option?
- If an older adult is parenting minor children or grandchildren and a report to APS triggers Child Protective Services (CPS) involvement, what policies and procedures need to be in place?
- How and where do staff document that a report was made to APS or law enforcement, as required?
- Consider who, within your agency or another organization, will provide the follow-up and advocacy services after a report has been made. Ask the victim whether and by whom they want to be contacted. Will the follow-up be conducted by the same individual in your program who made the report, or by someone else?

5. Staff and Community Partner Training on Mandatory Reporting

It is important but not sufficient to have mandatory reporting policies in place at your organization alone. In addition to educating employees and volunteers about your policies and procedures, it is equally valuable to educate and inform community agencies such as Adult Protective Services and other partners about:

- Sexual assault, domestic violence and stalking in later life.
- Victim services and how frontline workers have been trained to address mandatory reporting.

Taking these steps can help minimize conflict and confusion and promote understanding between victim service providers.

Disclaimer: The general information presented here is intended for educational purposes only. It does not constitute and is not a substitute for independent legal advice and should not be relied upon for that purpose. If you need legal advice you should consult with your own attorney.

This project was supported by Grant No. 2004-WT-AX-K024 (VRLC) and Grant No. 2005-EW-AX-K003 (NCALL), awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, and conclusions expressed are those of the authors and do not represent the official position or policies of the U.S. Department of Justice.