



POLICY & PROCEDURE

ELKHART LAKE POLICE DEPARTMENT

SUBJECT: **ELDER ABUSE ISSUES**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedure Manual

REFERENCE: WI State Statutes: 46.90, 55.043

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PURPOSE: The purpose of this Policy & Procedure is to comply with the requirements set for the Elder Abuse Reporting System (WI State Statute 46.90) and the Adult-at-Risk Agency & Reporting System (WI State Statute 55.043), plus enter into a Memorandum of Understanding regarding the operation of the system within the Sheboygan County Human Services/Aging Unit, and with any private or public agency that is participating in the elder/adult-at-risk abuse reporting system.

The Elkhart Lake Police Department recognizes the need for a proficient, high quality, coordinated service system dealing with Elder Abuse and Adult-at-Risk Abuse in Sheboygan County. The system can only function effectively if there are the following: a sharing of knowledge and available resources; elimination of duplicative services or efforts; an effective system of client referral, assessment and response; and a shared commitment to victim safety and holding abusers accountable.

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. BACKGROUND
- III. DEFINITIONS
- IV. REFERRALS TO AND REQUESTS FOR ASSISTANCE

- V. CRIMINAL INVESTIGATIONS
- VI. TRAINING
- VII. COLLABORATION
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I. POLICY

- A. It is the policy of the Elkhart Lake Police Department to notify Sheboygan County Law Enforcement in appropriate cases of elder abuse or adult-at-risk abuse, neglect, and exploitation.
- B. A further purpose is to have a Memorandum of Agreement to establish a formal framework for joint actions between the parties for investigation of suspected acts of criminal abuse of an elder or adult-at-risk and for the referral of an elder or adult-at-risk in need of social or protective services.

Therefore, this agreement has been entered into for the purpose of delineating responsibilities of the Sheboygan County Human Services/Aging Unit and Sheboygan County Law Enforcement in the implementation of Wisconsin's State Statutes § 46.90, § 55, and relevant criminal statutes.

II. BACKGROUND

- A. The "Declaration of Policy" provided in Chapter 55 states that the legislature recognizes that many citizens of the state, because of serious and persistent mental illness, degenerative brain disorder(s), developmental disabilities, or other like incapacities, are in need of protective services or placement.
- B. It also states that Chapter 55 is designed to establish those protective services and protective placements, to assure their availability to all individuals when are in need of them, and to place the least possible restriction on personal liberty and exercising of constitutional rights consistent with due process and protection from abuse, financial exploitation, neglect and self-neglect. [§55.01]

III. DEFINITIONS

Elder adult –at- risk: is "a person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation. § 46.90(1)(br)

Adult at risk: is “any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation. § 55.01(1e)

Abuse: includes the following five types: § 46.90(1)(a); § 55.01(1)

Physical Abuse: is the “intentional or reckless infliction of bodily harm.” §46.90(1)(fg)

Emotional Abuse: is “language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten, frighten, or otherwise harass the individual to whom the conduct or language is directed. §46.90(1)(cm)

Sexual Abuse: is the “violation of 940.225(1), (2), or (3m) (criminal sexual assault). §46.90(1)(gd)

Treatment without consent: is “...the administration of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electroconvulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance.” §46.90(1)(h)

Unreasonable confinement or restraint: “includes the intentional and unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his or her living area, use on an individual of physical restraining device, or the provision of unnecessary or excessive medication to an individual, but does not include the use of these methods or devices, in entities regulated by the Department, if the methods or devices are employed in conformance with state and federal standards governing confinement and restraint.” §46.90(1)(i)

Financial Exploitation: is “...any of the following:

- 1.) Obtaining an individual’s money or property by deceiving or enticing the individual or by forcing, compelling, or coercing the individual to give, sell at less than fair market value, or in other ways convey money or property against his or her will without his or her informed consent;
- 2.) Theft under 943.20;
- 3.) The substantial failure or neglect of a fiscal agent to fulfill his or her responsibilities;
- 4.) Unauthorized use of an individual’s personal identifying information or documents, as prohibited in 943.201;

5.) Unauthorized use of an entity's identifying information or documents, per 943.203;

6.) Forgery, per 943.38; or

7.) Financial transaction card crimes, per 943.41. §46.90(1)(ed)

Neglect: is "...the failure of a caregiver, as evidenced by an act, omission, or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual, including food, clothing, shelter, or physical or mental health care, and creating significant risk or danger to the individual's physical or mental health.

"Neglect" does not include a decision that is made to not seek medical care for an individual, if that decision is consistent with the individual's previously executed declaration or do-not-resuscitate under ch. 154, a power of attorney for health care under ch. 155, or as otherwise authorized by law." §46.90(1)(f); §55.01(4r)

Self-Neglect: is "...a significant danger to an individual's physical or mental health because the individual is responsible for his or her own care but fails to obtain adequate care, including food, shelter, clothing, or medical or dental care." §46.90(1)(g); §55.01(6u)

IV. REFERRALS TO AND REQUESTS FOR ASSISTANCE

A. The Sheboygan County Human Services/Aging Unit will immediately notify Sheboygan County Law Enforcement in any of the following cases/situations:

1. A report regarding suspected adult-at-risk abuse/elder abuse causes the agency worker to reasonably believe that a crime is occurring or has been committed and the alleged victim is in **immediate danger** because of the **imminent** occurrence of physical abuse, emotional abuse, sexual abuse, treatment without consent, unreasonable confinement or restraint, financial exploitation, neglect or other behaviors or conditions which are placing the adult-at-risk's/elder person's health, safety or welfare in jeopardy.
2. A report to the agency causes the agency worker to reasonably believe that they may be in danger of serious harm or injury during the response/ investigation and/or assessment. [§46.90(5)(c) and (f); §55.043(2)(a) and (b).]

Examples of situations that may require Sheboygan County Law Enforcement accompaniment include the presence of alcohol and/or other drugs, weapons and/or dangerous animals and/or a history of prior calls for service.

3. A response cannot be made or pursued because the agency worker is prevented from seeing the alleged victim or where other circumstances interfere with the agency response (e.g., the guardian, agent under activated power of attorney, or other individual intentionally prevents worker from access to the elder/adult-at-risk, interferes with, or, attempts to impede the response).
 4. The elder/adult-at-risk requests that the agency worker notify Sheboygan County Law Enforcement.
 5. An assessment causes the agency worker to reasonably believe that a criminal act has been committed against an elder/adult-at-risk **and** the elder/adult-at-risk is not verbally objecting or otherwise actively protesting the worker's request for Sheboygan County Law Enforcement investigation.
 6. The agency worker reasonably believes the one of the following actions is necessary and meets the applicable statutory standards **and** the agency believes it needs assistance from Sheboygan County Law Enforcement due to concerns such as the safety of the worker, custody issues, difficulty of transportation, etc.
 - a) An emergency detention (of either the elder/adult-at-risk or the alleged perpetrator) pursuant to §51.15;
 - b) Services to treat emergent needs related to alcohol abuse (of either the elder/adult-at-risk or the alleged perpetrator) pursuant to §51.45(11)(b);
 - c) Emergency protective services (of either the elder/adult-at-risk or the alleged perpetrator) pursuant to §55.13; or
 - d) An emergency protective placement (of either the elder/adult-at-risk or the alleged perpetrator) pursuant to §55.135.
 - e) An individual-at-risk restraining order, pursuant to §813.123. (NOTE: This may be to restrain interference with an agency response or to restrain certain abusive behaviors.)
 - f) Transporting the elder/adult-at-risk for performance of a medical examination, pursuant to §46.90(5)(br) or §55.043(lr)(c)
- B. Sheboygan County Law Enforcement officers who come in contact with an elder/adult-at-risk who they believe may be at risk due to self-neglect, neglect, financial exploitation or abuse should contact the Sheboygan County Human Services/Aging Unit as soon as possible so an assessment or order for services can be made. The Sheboygan County Human Services/Aging Unit shall provide reasonable assistance as needed, including making adaptive accommodations when securing placement and/or locating supportive services.

Support services provided by the Sheboygan County Human Services/Aging Unit may also include arranging for any ongoing health care needs of the elder/adult-at-risk victim.

- C. If appropriate, Sheboygan County Law Enforcement may request Sheboygan County Human Services/Aging Unit to provide assistance with:
1. An emergency detention under §51.15, to obtain services for an emergency detention (of either the elder/adult-at-risk or the alleged perpetrator) pursuant to §51.15;
 2. Services to treat emergent needs related to alcohol abuse (of either the elder/adult-at-risk or the alleged perpetrator) pursuant to §51.45(11)(b);
 3. Emergency protective services (of either the elder/adult-at-risk or the alleged perpetrator) pursuant to §51.13;
 4. An emergency protective placement (of either the elder/adult-at-risk or the alleged perpetrator) pursuant to §55.135; or
 5. Seeking an individual-at-risk restraining order, §813.123.

V. CRIMINAL INVESTIGATIONS

The parties recognize that Sheboygan County Law Enforcement and the Sheboygan County Human Services/Aging Unit have different roles, functions and responsibilities during the investigation of suspected criminal offenses committed against an elder/adult-at-risk. The parties will conduct separate investigations consistent with their agency's standard operating procedures. All parties agree to work cooperatively and with an open exchange of information, to the extent allowed by law.

- A. In situations of financial exploitation, Sheboygan County Law Enforcement may work with the agency worker as a team, to develop an investigation plan, including interviewing witnesses and securing and/or inventorying information gained from bank statements and/or other financial records. [§46.90(5)(b)6 or §55.043(1r)(b)6]
- B. In any criminal investigation of abuse, neglect or financial exploitation of an elder/adult-at-risk, the Sheboygan County Human Services/Aging Unit will advise Sheboygan County Law Enforcement when it refers the case to the local District Attorney's office, the Wisconsin Department of Justice, or the U. S. Attorney's Office for prosecution. If the case is not referred for prosecution, Sheboygan County Law Enforcement will provide its reasons to the Sheboygan County Human Services/Aging Unit.

- C. At the conclusion of an investigation, whether done independently by Sheboygan County Law Enforcement or completed jointly with Sheboygan County Human Services/Aging Unit, the agency will prepare and submit to the state incident reports for adults-at-risk age 18 to 59, using the “Adults-at-Risk Reporting System” (#DDE-663) or elder incident reports to the Wisconsin Incident Tracking System (WITS) for Elder Abuse at:

<http://dhfs.wisconsin.gov/aging/elderabuse/index.htm>.

Sheboygan County Law Enforcement will furnish to the Sheboygan County Human Services/Aging Unit the necessary information to complete this report. When requested by the Lead Investigator, Sheboygan County Law Enforcement will furnish the Sheboygan County Human Services/Aging Unit with copies of all relevant police reports.

- D. If the employer is an entity as defined under Wis. Admin. Code HFS §13.03(11), then it must comply with those requirements and responsibilities. [See,

<http://dhfs.wisconsin.gov/rl-DSL/Publications/06-028.ht>.]

VI. TRAINING

- A. Sheboygan County Law Enforcement and Sheboygan County Human Services/Aging Unit agree to work together collaboratively to mutually develop and conduct training programs for both Sheboygan County Law Enforcement and agency staff on issues of abuse, neglect, self-neglect and financial exploitation of elder/adults-at-risk. Sheboygan County Law Enforcement will include information regarding abuse, financial exploitation, neglect and self-neglect of elders/adults-at-risk in scheduled training sessions.

All education and training by and/or for the Sheboygan County Law Enforcement agency relating to the handling of domestic abuse complaints shall stress enforcement of criminal laws in domestic abuse incidents, including how domestic abuse affects individuals with disabilities, including their potentially unique safety needs as well as domestic abuse in later life and protection of the alleged victim. Sheboygan County Law Enforcement agencies and community organizations with expertise in the recognition and handling of domestic abuse incidents shall cooperate in all aspects of the training. Topics should include:

1. The civil elder abuse reporting law, §46.90, and the civil adult-at-risk reporting law, §55.043;
2. Criminal statutes that may be applicable in cases involving elder/adult-at-risk abuse, including §968.075, (domestic abuse incidents, arrest and prosecution).\
3. Individuals-at-risk restraining orders, §813.123

4. Emergency protective services and emergency protective placement, §§55.13 and 55.135
 5. Assessing competency
 6. Documentation issues
 7. "Consent" as it applies to refusing services
- B. Training outcomes are to ensure that all Sheboygan County Law Enforcement personnel are informed of the proper procedures for receiving calls, investigating cases and reporting to the Sheboygan County Human Services/Aging Unit.
- C. The Sheboygan County Human Services/Aging Unit shall assist Sheboygan County Law Enforcement in developing and presenting materials for training sessions.

Sheboygan County Law Enforcement shall request that representatives of community-based agencies (e.g., domestic violence and sexual assault programs, community mental health programs, community programs servicing individuals with disabilities, substance abuse service providers, county/tribal aging units) also participate in the development and provision of these trainings as appropriate.

- D. The Sheboygan County Human Services/Aging Unit shall also train its staff and providers on the provisions of the civil adult-at-risk reporting law, (§55.043), the civil elder abuse reporting law (§46.90), as well as the individual-at-risk restraining order (§813.123), and criminal statutes that may be used in remedying elder/adult-at-risk abuse, financial exploitation and neglect, including §968.075 (domestic abuse incidents; arrest and prosecution).

The Sheboygan County Human Services/Aging Unit shall also request local Sheboygan County Law Enforcement and community-based agencies (e.g., domestic violence, county/tribal aging units, and sexual assault programs) to assist in the development and provision of these trainings as appropriate.

VII. COLLABORATION

- A. For adults-at-risk, the Sheboygan County Human Services/Aging Unit and Sheboygan County Law Enforcement mutually agree that an effective method in developing successful interventions to resolve abuse, neglect and exploitation of adults-at-risk is an interdisciplinary one. Therefore, when complex cases do arise, the above agencies agree that they will involve professionals from a wide range of disciplines to provide consultation and help develop the best responses for the cases involved. This collaborative approach ensures:

- a sharing of available knowledge and resources;
- elimination of duplication of services;
- an effective system of client referral, assessment and response, and

- a shared commitment to victim safety and holding abusers accountable.

VIII. CONFIDENTIALITY

- A. Sheboygan County Human Services/Aging Unit and Sheboygan County Law Enforcement acknowledge that reports of suspected adult-at-risk and elder adult-at-risk abuse are confidential and may not be released except in circumstances indicated under §46.90(6)(b)1-10., Wis. Stats. or §55.043(6)(a)1-10., Wis. Stats.

IX. POLICY REVIEW

- A. Throughout the period of this agreement, Sheboygan County Law Enforcement and Sheboygan County Human Services/Aging Unit will meet for the periodic review and modification of this policy and to identify issues of mutual concern and solutions relating to elder/adult-at-risk abuse, neglect, or financial exploitation on a countywide basis.
- B. A meeting between Sheboygan County Human Services/Aging Unit and Sheboygan County Law Enforcement will take place at least annually to review, and amend as necessary, the policies and procedures contained in this Memorandum of Understanding. The annual meeting shall occur within two weeks of the anniversary date of the initial signed agreement, and shall be convened by Sheboygan County Human Services/Aging Unit.

Michael Meeusen
Chief of Police

This Policy & Procedure cancels and supersedes any and all written directives relative to the subject matter contained herein.

Initial 06/01/2015