

Respecting Elders, Protecting Elders:

Untangling the Mystery of What Sexual Assault Advocates Need to Know About the Mandatory Reporting of Elder Abuse

By Jessica E. Mindlin, Esq.¹ and Bonnie Brandl, MSW²

A sexual assault advocate meets Olga, an 82-year-old woman, at the hospital. Olga says she was raped and wants medical help, but does not want anyone to call the police or social services.

Is the advocate mandated to call adult protective services?

Maxine (age 67) attends an incest survivor support group. During a group session, she discloses that her adult son, who lives in her home, hits her and is stealing her Social Security check.

Is the advocate mandated to call adult protective services? Is the answer different if the victim says a home visit by social services will increase her risk of being assaulted again?

Fatima (age 59) was recently sexually assaulted and is receiving individual counseling at the local rape crisis center. Her birthday is tomorrow.

Is the advocate mandated to contact an adult protective services (APS) agency and report elder abuse because Fatima turns age 60?

There is no single answer that to all of the questions above. Moreover, the law is different in every jurisdiction. The Victim Rights Law Center (VRLC) and the National Clearinghouse on Abuse in Later Life (NCALL) are national Technical Assistance (TA) providers for OVW grantees. We can help you sort out how to answer these and other questions. We invite you to contact us for assistance.³

I. INTRODUCTION

There are approximately 40 million persons over the age of 65 living in the United States today (approximately 13% of the population) and the number of older Americans is increasing. By the year 2030, nearly one in five adults (19% of the population) will be older than age 65.⁴

In 2009, a National Institute of Justice study found that about 11% of older adults reported being harmed in the past year.⁵ As the number of older Americans increases, the incidence of elder abuse (which includes physical, sexual and/or emotional abuse, as well as neglect and financial exploitation) is also likely to rise.

Sexual assault in later life is a form of elder abuse, and it includes both intimate and non-intimate partner sexual violence. (The term “non-intimate” refers to sexual assaults committed by someone other than the victim’s spouse or partner. It encompasses stranger rape as well as rapes and sexual assaults committed by a friend, caretaker, family member, health care aid, neighbor, etc.). The sexual violence may be ongoing abuse or a single incident of sexual assault. Like sexual assault among younger adults, sexual abuse in later life is often committed by offenders who have a known but not sexually intimate relationship with the victim such as family members, acquaintances, caregivers, or trusted others), as well as by strangers or intimate partners.⁶ Most often, the sexual assault occurs in the older adult’s home, whether a private dwelling or a facility setting.

While any individual may report elder abuse, in many states, tribes and territories designated individuals or types of professionals must report it. The list of mandatory reporters of elder abuse varies from jurisdiction to jurisdiction, but often includes rape crisis center (RCC) staff and volunteers, as well as programs’ social workers, medical providers or other professionals serving sexual assault survivors.⁷ RCC staff and other first responders, therefore, must be able to navigate the complexities of respecting victim privacy and autonomy while at the same time complying with mandatory reporting statutes. Balancing these competing interests requires a careful reading - and a thorough understanding - of the governing federal, state, and tribal or territorial laws, as well as funders’ contractual requirements, ethical obligations (e.g., codes of professional responsibility), licensing requirements, and any relevant program and coalition policies and protocols, among other considerations.

It is not just sexual assault advocates who need a thorough understanding of state, tribal and territorial reporting laws, however.

Coalition staff must also be familiar with their mandatory reporting duties and victims’ confidentiality and privilege rights, both to ensure their own organization’s compliance and so that they can provide effective and accurate training and technical assistance to member centers and other victim service providers (VSPs).

The purpose of this article is to strengthen advocates’ and coalitions’ capacity to analyze their reporting and confidentiality obligations, and to help them locate the information they need to analyze how to provide safe and victim-centered advocacy (even in an environment of mandatory reporting of elder abuse). The following areas are addressed below: An Overview of Mandatory Reporting; What Sexual Assault Advocates Need to Know About Mandatory Reporting of Elder Abuse; and Applications for Practice.

II. OVERVIEW OF MANDATORY REPORTING

Mandatory reporting statutes require individuals to report certain cases of abuse, neglect and/or injuries to law enforcement, social services and/or a regulatory agency. The most common mandatory reporting laws address child abuse, sexual assault, domestic violence, elder abuse, gunshot wounds, and/or abuse of vulnerable adults (e.g., persons 18 years or older unable to report abuse and/or protect themselves from further harm).

As noted above, jurisdictions vary regarding as to who is mandated to report, what kinds of injuries or neglect must be reported, and about whom reports must be made. For example, in some jurisdictions, everyone must report suspected elder abuse (e.g., Kentucky requires “any person” having reasonable cause to suspect elder abuse to report it).⁸ In contrast, in other states only specific professionals (such as licensed clinical social workers or health care providers) are mandated reporters, although others are encouraged (but not required) to report suspected abuse or neglect.

Sometimes, certain professionals are expressly exempt from the mandatory reporting laws. For example, Kansas law provides that “an employee of a domestic violence center shall not be required to report information or cause a report of information to be made” under the state’s mandatory reporting laws.⁹

Finally, even when the law appears to require that a victim service provider report abuse, closer analysis sometimes reveals that reporting is discretionary under certain conditions. Wisconsin law, for example, allows professionals who are mandatory reporters not to report if it is not in the victim’s best interest or a report would place the victim at risk of further harm).¹⁰ These are just a few examples of how mandatory reporting laws can be more complex than they appear, and why it is important to be familiar with all the relevant laws in your jurisdiction.

Like the laws, opinions in the field also vary as to whether mandating reports of elder abuse is beneficial or detrimental for older victims.¹¹ Supporters of mandatory reporting laws often assert that:

- Victims will be safer because many older adults may not recognize that they are being victimized, are unaware of services, or may be too afraid or physically unable to seek help without outside intervention. Mandatory reporting may enhance these victims’ safety by linking them with services that will provide information and referrals to improve their living situations.¹² Holding offenders accountable may also enhance victim safety;¹³
- Professionals who interact most frequently with victims typically receive training on mandatory reporting, thereby enhancing these providers’ understanding of the dynamics of elder abuse and helping them provide better services to their older clients; and/or

- Mandatory reporting may lead to a greater number of cases reaching Adult Protective Services, elder abuse agencies or law enforcement officers, thus increasing our understanding of prevalence and incidence,¹⁴ and leading to improved services for this vulnerable population.

In contrast, some VSPs fear that mandatory reporting laws can be harmful for victims, and oppose them on these grounds. Advocates and others opposed to mandatory reporting are concerned that such laws may:

- Undermine victim autonomy insofar as it takes away from the victim the decision whether to ask for help (and from whom). Victims lose the right to say whether or not an investigation can take place and who learns about the abuse. Victims may find themselves in court or their case discussed in the media even if they did not want anyone to know about the assaults.
- Lead some victims not to seek (or return for) help from a VSP or other agency because they know a report will be made regardless of their wishes;
- Breach confidentiality so significantly that it will harm their relationship with a victim, and that once compromised a victim’s trust can never be fully restored;
- Wrongly presume that supportive services are in place with qualified staff and necessary resources, even though too often this is not the case. Indeed, the current trend in this economy is increasing numbers of victims per caseload and dwindling or eliminated resources. Sexual assault expertise, especially, may be limited or non-existent; services for marginalized victims such as older sexual assault survivors can be especially rare; and/or
- Be an ageist response to treat victims differently simply by virtue of their age.¹⁵

Regardless of whether you believe mandatory reporting is beneficial or burdensome for victims and those who serve them, you will need to comply with your jurisdiction’s mandatory reporting provisions. Sometimes, identifying these provisions and the scope of your obligations can be challenging and complex.

III. WHAT SEXUAL ASSAULT ADVOCATES NEED TO KNOW ABOUT MANDATORY REPORTING OF ELDER ABUSE

Sexual assault advocates often are – and should be -- understandably reluctant to breach victim privacy and confidentiality: sexual assault victims share some of the most painful and violating experiences of their lives. Often, these disclosures are forthcoming only because the advocate has established a relationship based on trust and the victim’s self-interest. For many survivors, the promise that these details will be kept confidential is a prerequisite for their disclosure of abuse. Breaching that trust can revictimize a survivor and threaten victim safety.

Violating confidentiality is also inconsistent with the precepts on which our work rests: that we are a movement committed to survivor empowerment and self-determination. The federal Violence Against Women Act (VAWA) reflects this commitment to victim privacy. VAWA specifically prohibits VSP grantees from releasing a victim’s confidential or personally identifying information without a victim’s written consent, unless the release is mandated by your state, tribal or territorial statute (or a court).¹⁶ The starting place for your analysis, therefore, is to determine your reporting obligations under state, tribal or territorial law.

A. STATE OR TRIBAL LAWS

To determine what mandatory reporting laws apply in any individual case, start by reading the applicable statute(s), and relevant defini-

tions. The primary considerations include: (1) who is a mandatory reporter; (2) about whom must abuse be reported; (3) what constitutes elder abuse; (4) what information must be reported; and (5) what exceptions, if any, apply to the duty to report. The flow chart that accompanies this article (see page ___) may also help you navigate and analyze what you need to know to determine your reporting obligations generally, and in a particular case.

I. Are You A Mandatory Reporter Of Elder Abuse?¹⁷

Although the answer to this question may seem obvious, it can be more complicated or nuanced than appears at first blush. For example, if the statute says that all “licensed therapists” are mandatory reporters of elder abuse, and the licensed therapist is a volunteer at an RCC, is the volunteer a mandated reporter? Similarly, if the statute says that an “attorney” must report abuse if the communication is not protected by attorney-client privilege, does the obligation to report extend only to attorneys licensed in that state, or to anyone who is licensed as a lawyer anywhere? In other words, who is – under the law – a “licensed therapist” or an “attorney” and where is that information to be found? It is also important to know whether you are a mandatory reporter 24 hours a day/7 days a week, or only when you learn about the abuse while working in your professional capacity.

Individuals who are licensed in more than one jurisdiction will need to consider the impact of multi-state licensing and cross-border services. For example, if you’re working as an advocate in State A, in which you are not a mandatory reporter, but you are licensed by State B where you are a mandatory reporter, are you then obligated to report the sexual assault of an older client to the authorities in State B (but not in State A)?

It’s also important to distinguish between the obligation to report as a matter of law versus

a condition of employment. Sometimes, employers' internal policies or protocols will require employees to report abuse. **This is not the same as a legal obligation to report.** This distinction is absolutely critical for VSPs funded by the Violence Against Women Act or other federal funders who impose confidentiality requirements upon grantees. (Funders such as the Office on Violence Against Women, Office for Victims of Crime, and the Family Violence Prevention Services Act all require VSP grantees to protect the privacy of victims' confidential information.)

2. Is the Victim An Elder About Whom Abuse Must Be Reported?

The age at which an individual is "older" or otherwise covered by a mandatory reporting law due to age is determined by each individual jurisdiction. The Dine Elder Protection Act, enacted in 1996 by the Navajo Tribal Council, for example, defines "elder" as anyone 55 or older. Under federal law, and in New Jersey,¹⁸ the Virgin Islands,¹⁹ and Tennessee²⁰, among other states, an "older" adult is anyone 60 years of age or above. In Texas,²¹ California²² and South Dakota,²³ however, elder abuse reporting statutes apply to only to someone 65 years of age or older.

In some states there is no specifically designated age at all. North Carolina, for example, mandates a report of abuse for any adult who, among other reasons, "is physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy or autism [or] organic brain damage caused by advanced age or other physical degeneration. . . ."²⁴ Such statutes impose mandatory reporting obligations whenever a vulnerable adult" may be being abused. The adult may be vulnerable for any one of a number of reasons, including age, physical or cognitive disability, or other circumstance.

As with the other requirements discussed here, you will need to know what the applicable law is in your jurisdiction to ensure you're complying with your mandatory reporting (and any applicable confidentiality) obligations.

3. What Is "Abuse?"

If you determine you are a mandatory reporter, then in every case you must also determine whether the sexual assault (or other potentially reportable information) falls within your jurisdiction's definition of "elder abuse." Again, these definitions will vary between jurisdictions, so it is important to be familiar with your statute and to confirm whether the sexual violence or other harm falls within the legal definition of abuse.

In Oregon, for example, the definition of elder abuse is quite broad and may include the use "of derogatory or inappropriate names, phrases or profanity, ridicule, harassment, coercion, threats, cursing, intimidation or inappropriate sexual comments or . . . [c]ausing any sweepstakes promotion to be mailed to an elderly person."²⁵ In other jurisdictions, the definition of "abuse" may include only physical and/or sexual and/or emotional abuse or neglect. In most states, elder abuse also includes financial exploitation. You will need to ascertain how your law defines it.

4. What Must Be Reported?

Once you've determined that you are a mandatory reporter and that the sexual assault falls within your jurisdiction's definition of "elder abuse," the next step is to determine what information must be reported. For example, does the statute require that the reporter provide only the victim's name, address and telephone number? Must additional information be disclosed, such as the basis for the report, the name, location and contact information for the alleged offender, or the names of the victim's family members and care providers?²⁶

Each state sets out its own requirements in this regard. For example, Connecticut law states generally that, "Such [a] report shall contain the name and address of the involved elderly person, information regarding the nature and extent of the abuse, neglect, ex-

ploitation or abandonment, and any other information which the reporter believes might be helpful in an investigation of the case and the protection of such elderly person."²⁷ In contrast, Indiana law requires a report to include as much of the following information as is known: (1) name, age, and address of the endangered adult; (2) names and addresses of family members or other persons financially responsible for the endangered adult's care or other individuals who may be able to provide relevant information; (3) apparent nature and extent of the alleged neglect, battery, or exploitation and the endangered adult's physical and mental condition; (4) name, address, and telephone number of the reporter and the basis of the reporter's knowledge; (5) name and address of the alleged offender; and (6) any other relevant information regarding the circumstances of the endangered adult.²⁸

Even if it's awkward or controversial to withhold information from APS, advocates must limit their disclosure to the information required by law. They may not release information that exceeds the scope of what's required. Even if APS asks for additional information to help them triage cases, these details may not be released unless the older victim has signed a release of information for this purpose. Advocates must comply with the law and only provide information that is mandated by statute. Disclosing, without victim consent, information that is not legally required violates a victim's right to privacy, and will likely contravene the advocate's federal and state confidentiality obligations.

5. What Exceptions Apply?

If you've determined that you are a mandated reporter and elder abuse has occurred in a particular case, your final step is to determine what reporting exceptions, if any, apply. One of the most likely exceptions is if the victim's information is protected by a privilege which may not be breached. Some of the most common privileges include clergy-penitent, attorney-client, and advocate-victim.

If your communications with a victim are privileged, determine what the scope of the privilege is and what elements must be met for the privilege to apply. Does the privilege extend only to disclosures the victim makes in the context of the privileged relationship? For example, if the victim discloses during an attorney-client meeting, is the lawyer prohibited from revealing the information? If the victim reports abuse to a neighbor who happens to be an advocate, and the state has victim-advocate privilege, is the communication private although the advocate was not serving in a professional capacity when the communication took place? Remember that, because the privilege belongs to the victim – not the provider – only the victim may waive it.

B. The Violence Against Women Act²⁹

If a VSP is not required to report the elder abuse pursuant to a statutory or court mandate, the Violence Against Women Act (VAWA) requires victim service provider grantees to keep victims' information confidential, unless the victim consents to its release. This next section summarizes VAWA's confidentiality requirements for VSPs.

I. What Are VAWA's Confidentiality Requirements?

Under federal law, confidentiality is a grant condition for every state, tribe or territory receiving VAWA funding. All VSP grantees and sub-grantees who receive funding from the Violence Against Women Act (VAWA)³⁰ funds must comply with VAWA's confidentiality obligations. Grantees are required to protect the confidentiality and privacy of those receiving services, and may not disclose personally identifying information³¹ or individual information or reveal individual client information unless at least one of the following criteria is met: (1) The victim executes a written, narrowly tailored, and reasonably time-limited consent form (also called a release of information), executed with the victim's informed consent;

(2) The VSP is required to release the information by statutory mandate (such as an elder abuse mandatory reporting law); or

(3) The information must be released pursuant to a court mandate.³²

In this context, the term “informed consent” means that, before signing the release, the victim understands what information will be released, why it is being released, what will happen to the information once it is disclosed, the benefits and burdens of releasing the requested information, and how to withdraw consent once it has been granted. Victims must also have the mental capacity to give informed consent.

2. What Does VAWA Require If Elder Abuse Is Reported?

If a VSP must release a victim’s personal or identifying information pursuant to a statutory or court mandate, VAWA requires the VSP to: (1) make reasonable attempts to notify the victim; and (2) take steps necessary to protect the privacy and safety of the persons affected by the report. Note that, under this second condition, measures must be taken to protect both the victim’s privacy and safety and that of others affected by the information disclosed in the report.

IV. APPLICATIONS FOR PRACTICE

Frontline sexual assault advocates, executive and boards of directors, and coalition staff have a role to play in understanding and implementing mandatory reporting. This section identifies some practical tips for working with victims, establishing or revising agency policies and providing training and technical assistance.

A. Working with Victims (for staff who provide direct SA services)

Staff that provide direct services need to know their laws and agency policies. Here are some tips to consider when working with older victims and reporting elder abuse.

1. Prior to Intake or Interviews

- Advise all older victims what information may and may not be kept confidential.
- Let older victims know, before a disclosure is made, what can happen if they discuss sexual assault or other forms of elder abuse. Giving the victim this information up front ensures the victim an opportunity to control of what information to share, when and with whom.

2. Prior to Making a Report

- Let the victim know that because a report is mandated you will be contacting social services, law enforcement or a regulatory agency, as required.
- Offer to include the victim in the reporting process. The victim may choose to self-report or participate in the reporting process. Offering the option of self-reporting may preserve the victim’s willingness to work with you and also with APS or other agencies. Self reporting may help the victim retain some measure of autonomy and self-determination, and can help ensure the information reported is accurate and in context.
- If a victim is not interested in self-reporting, let the victim know when the report will be made and exactly what information will be released.
- Discuss the practical and emotional consequences of reporting and help the victim understand the process. If you know the next steps (for example, that APS will send a worker to investigate within 72 hours), let the victim know what to expect.
- Recognize that the victim may feel anger or betrayal. Discuss and validate those feelings while attempting to minimize potential damage to the working relationship.

- Take into consideration that some older victims may have ongoing contact with perpetrators (who may be spouses, partners, adult children or other family members, caregivers or other facility staff). Victim safety must remain a primary consideration, especially when the victim may be providing care, housing or economic support for the offender, and/or the older victim may be dependent upon the offender for her or his daily care and ability to live independently. Develop a safety plan (when appropriate) and update regularly.

3. Reporting the Elder Abuse

- Contact the appropriate agency.
- To ensure that you are complying with VAWA and other federal confidentiality requirements, only report what is mandated by statute. You may not breach the confidentiality without the victim’s written and informed consent.
- Document that a report has been made.

4. During the Investigation

- Offer to be present with the victim during or after any APS interviews (if allowed by APS and your agency policy).
- If the victim is interested in having other people present or available for support, work with the victim to determine who may be available.
- Let the victim know if the report will be given to other agencies and/or organizations, such as law enforcement.
- Work with APS on behalf of victims whose risk may increase due to some investigative practices.

5. After the Investigation

- Follow-up with both the victim and other professionals to ensure that needed services are offered. Take care not to inadvertently release a victim’s private or personal information.
- Continue to work with APS on behalf of victims whose risk may increase due to some investigative practices.

B. Developing Agency Policy (for Boards of Directors and Executive Directors)

Sexual assault agencies need to have comprehensive policies in place for working with victims who may be subject to mandatory reporting laws. These 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 programs may need to create new or modify existing policies on reporting suspected abuse. Some questions to consider include:

1. Who Decides If A Report is Mandated and Who Makes the Report?

- Who is responsible for reporting elder abuse? Is everyone in the sexual assault program responsible or does the reporting requirement apply only to certain staff (e.g., staff with professional licenses may be mandated reporters, while others are not)?
- Who decides if and when a report is made? Does direct line staff, the executive director or a team make this determination?
- Who contacts APS? May any staff member call APS or does agency policy require that only the executive director or a supervisor report abuse?
- If line staff may report to APS, must they inform the director or a supervisor that the report has been made?

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 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 her the time 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.
- 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?

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 as required?
- What follow-up and advocacy is preferred with the victim following a report? Is the follow-up conducted by the same individual in your program who made the report or by someone else?

C. Training and Technical Assistance (for coalition staff)

Coalition staff members are in a unique position to provide technical assistance and training to frontline workers, administrators and boards of directors. In addition to the topics discussed throughout this article, coalition staff should provide information on whether or not a reporter can be held liable for filing a report if it is not substantiated. Another training topic is whether there are any criminal or civil penalties for not reporting suspected elder abuse. Laws vary as to whether there is civil or criminal penalty for failure to report. Penalties for failure to comply with a state’s mandatory reporting requirements may include jail time, financial penalty, or both.

There are a number of resources to help you find answers to these and other questions discussed in this article. These resources include but are not limited to your state level APS administration office (often located in state Department of Health and Family services), the website for the National Center on Elder Abuse (www.elderabusecenter.org), WCADV’s National Clearinghouse on Abuse in Later Life (www.ncall.us) and the Victim Rights Law Center (www.victimrights.org).

Information on mandatory reporting may be disseminated to member programs in a variety of ways. Staff can create information sheets for distribution on the coalition website and at training sessions. Coalition staff can ensure that there are workshops on abuse in later life and mandatory reporting at new staff and director trainings and statewide conferences and webinars. In addition, staff can be available to answer questions by phone or email.

Finally, coalition staff can also provide training to APS workers about sexual assault and SA-services, and how frontline workers are being trained to address mandatory reporting to minimize confusion on the local level. Sexual assault coalitions can also work with other

state level public and private agencies and organizations to enhance a coordinated response to elder abuse and sexual assault in later life.

V. CONCLUSION

Americans are aging. Sexual assault advocates can expect to see increased numbers of older victims. Because of this, advocates may find themselves increasingly confronting the complexities of mandatory reporting and privacy laws. To ensure victims are giving informed consent and staff have the information necessary to comply with the law, programs should review their existing state statutes, policies, and funder obligations to confirm they are in full compliance with the law. Respect the elders in your community. Protect their confidentiality and privacy rights. Take the time untangle the mystery of mandatory reporting. ▲

¹ Jessica Mindlin is the National Director of the Victim Rights Law Center’s Legal Technical Assistance and Training. Jessica may be reached by email at: jmindlin@victimrights.org or at the VRLC’s Portland, Oregon office (503-274-5477). © Do not reproduce or modify this article without permission.

² Bonnie Brandl is the director of the National Clearinghouse on Abuse in Later Life (NCALL), a project of the Wisconsin Coalition Against Domestic Violence. She can be reached at bonnieb@wcadv.org.

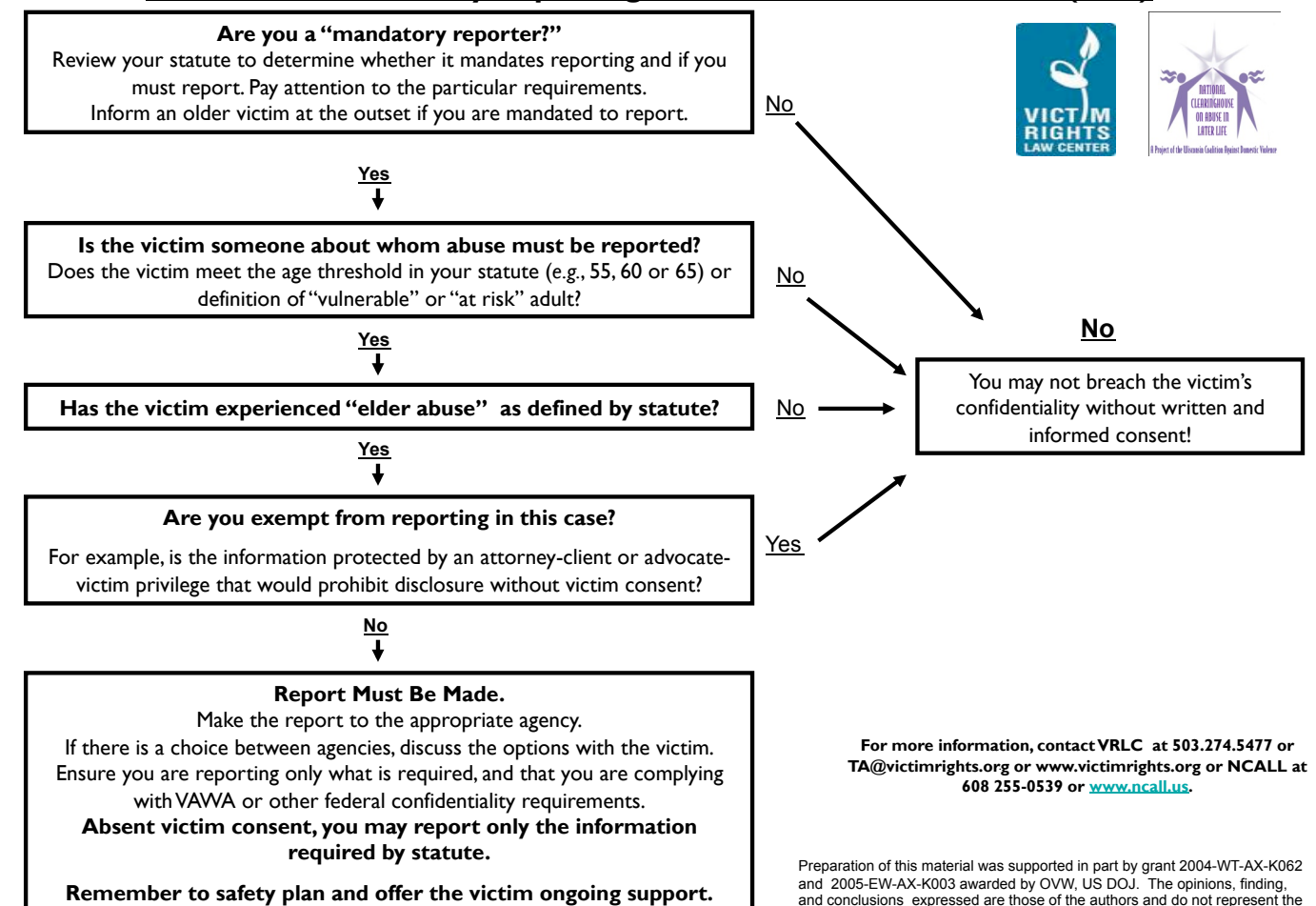
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⁴ United States Census Bureau website.
⁵ Acierno, R. Hernandez-Tejada, Muzzy, Wendy and Steve, Kenneth (2009) National Elder Mistreatment Study. National Institute of Justice, <http://www.ncjrs.gov/pdffiles1/nij/grants/226456.pdf> The NIJ study surveyed only older adults living in the community who had the physical and mental capacity to answer a telephone survey.

⁶ Acierno, supra note 5.

⁷ For example, in Michigan any person “employed, licensed, registered or certified to provide health care, educational, social welfare, mental health or other human services” must report elder abuse. M.C.L. §§ 400.11. Links to all of the states’ and territories’ elder abuse laws may

Elder Abuse Mandatory Reporting for Victim Service Providers (VSP)



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For more information, contact VRLC at 503.274.5477 or TA@victimrights.org or www.victimrights.org or NCALL at 608 255-0539 or www.ncall.us.

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be accessed online at: http://www.ncea.aoa.gov/NCEARoot/Main_Site/Library/Laws/APS_IA_LTCOP_Citations_Chart_08-08.aspx

⁸ K.R.S. § 209.020 (2010).

⁹ K.S.A. § 39-1431 (2009).

¹⁰ See e.g., Wis Stat 55.043 (1m) (2010), which provides that, although certain professionals are required to report elder abuse, no reporting is required if the professional believes that filing the report would not be in the best interest of the elder adult at risk or the adult at risk. The reporter must document the basis for this belief. *Id.*

¹¹ The mandatory reporting controversy is not limited to the United States. For example, no federal, state or territorial laws in Australia mandate reporting of elder abuse except in the case of physical or sexual abuse in aged care facilities but territories are experimenting with different approaches to the problems of elder abuse.

¹² Hyman, A. "Mandatory Reporting of Domestic Violence by Health Care Providers: A Policy Paper (1997) published on Family Violence Prevention Fund website http://www.endabuse.org/userfiles/file/HealthCare/mandatory_policypaper.pdf, 1 – 14; Freed, P. and V. Drake "Mandatory Reporting of Abuse: Practical, Moral, and Legal Issues for Psychiatric Home Healthcare Nurses." *Issues in Mental Health Nursing*, 20, 423 – 436 (1999).

¹³ See Hyman, A. at 1.

¹⁴ *Id.*

¹⁵ Faulkner, L. "Mandating the Reporting of Suspected Cases of Elder Abuse: An Inappropriate, Ineffective and Ageist Response to the Abuse of Older Adults" *Family Law Quarterly*, Vol. XVI, No. 1, 69 – 91 (1982).

¹⁶ VAWA specifically defines the term "victim services provider" who is subject to the confidentiality requirements. See 42 U.S.C. § 13925(a)(36). If a release is required, the VSP must take steps to protect the safety of the victim and others affected by the release. See 42 U.S.C. § 13925 (b)(2)(C).

¹⁷ You will also want to know which, if any, of your colleagues are mandatory reporters. This information may impact what information will be shared within – and between – provider organizations.

¹⁸ N.J.S. § 52:27D-409.

¹⁹ 34 V.I.C. § 452, 453, 454 (2009)

²⁰ Tennessee Adult Protection Act 71-6-102 (2) (2010).

²¹ Texas Penal Code Section 22.04.

²² Elder Abuse and Dependent Adult Civil Protection Act, Ca. Welf. & Inst. §§ 15600 et seq. (2010).

²³ SDC 22-46-1 (2010).

²⁴ NC Art. 6 § 108A-101(d) (2009).

²⁵ ORS 124.055 (e) and (f).

²⁶ Under Maryland law, for example, "Insofar as reasonably possible, the report should include the name, age, and home address of the alleged vulnerable adult; name and home address of the person responsible for the care of the alleged vulnerable adult; whereabouts of the alleged vulnerable adult; nature of the alleged vulnerable adult's incapacity; nature and extent of the abuse, neglect, self-neglect, or exploitation of the alleged vulnerable adult, including evidence or information available to the reporter concerning previous injury possibly resulting from abuse, neglect, self-neglect, or exploitation; and any other information that would help to determine the cause of the suspected abuse, neglect, self-neglect, or exploitation and the identity of any individual responsible for the abuse, neglect, self-neglect, or exploitation." Md. Code Ann., Fam. Law §§ 14-101, 14-302 (2009).

²⁷ Conn. Gen. Stat. § 17b-451(b) (2010).

²⁸ Indiana Code 12-10-3-10 (2009).

²⁹ The Family Violence Prevention Services Act (42 U.S.C. 10402(a)(2) (E)) and the corresponding regulations in VAWA also require grantees to maintain victims confidentiality. See also 42 U.S.C.

§ 13925(b)(2) and 42 U.S.C. § 13925(a)(18).

³⁰ 42 U.S.C. § 13925 (b)(2).

³¹ "Personally identifying information" is "information that is likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including a victim's first and last name; a home or other physical address; contact information (including a postal address, e-mail address, telephone or fax number); social security number; and any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of the above information, would serve to identify any individual." 42 U.S.C. § 13925 (a) (18).

³² If a court mandates that the victim's private information be released, the VSP should take steps to ensure that a court order was properly issued.