

Sample — Protocol - Clackamas

CLACKAMAS COUNTY MULTI-DISCIPLINARY TEAM VULNERABLE ADULT ABUSE PROTOCOL

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MEMBER AGENCIES

This protocol represents the partnership and agreement to support these policies among the following agencies:

- Canby Police Department
- Clackamas County Community Corrections
- Clackamas County Department of Health, Housing and Human Services:
 - Developmental Disabilities, Adult Protective Services
 - Behavioral Health, Adult Protective Services
 - Behavioral Health, Crisis Services
- Clackamas County District Attorney’s Office
- Clackamas County District Attorney Victim Assistance
- Clackamas County Senior Citizens Council
- Clackamas County Sheriff’s Office
- Gladstone Police Department
- Lake Oswego Police Department
- Milwaukie Police Department
- Molalla Police Department
- National Alliance for the Mentally Ill

- Oregon City Police Department
- Oregon Department of Human Services: Seniors and People with Disabilities, Adult Protective Services
- Oregon Department of Human Services: Seniors and People with Disabilities, Office of Investigations & Training
- Sandy Police Department
- West Linn Police Department

Clackamas County Multi-Disciplinary Team

I. PROTOCOL STATEMENT

A. Clackamas County MDT Mission Statement

The mission of the Clackamas County Vulnerable Adult Multi-Disciplinary Team {MDT} is to develop a professional team committed to protecting elders and adults with disabilities, herein collectively referred to as "vulnerable adults."

B. Purpose Statement

Multidisciplinary Teams are a team approach to the assessment, investigation and prosecution of abuse cases involving vulnerable adults. MDT members work in collaboration to address the abuse of vulnerable adults served in Clackamas County, and to facilitate a process in which professionals from diverse disciplines are able to work together more effectively and efficiently.

The MDT has a written protocol signed by representatives of all Team agencies. The purpose of this protocol is to clarify each agency's duties and responsibilities and to improve agency coordination. The goals are to provide services:

- that are in the best interest of the vulnerable adult;
- to conduct abuse investigations in an expedited and effective manner;
- to prevent the abuse of other potential victims;
- to increase the effectiveness of the prosecution of criminal cases,
- to provide increased safety through victim advocacy, and
- to provide information to all involved agencies in a coordinated and efficient manner.

Each agency's participation shall be consistent with its commitment to the interests of vulnerable adults within the context of the agency's statutory, administrative and policy obligations.

C. Composition of the Multidisciplinary Team

The MDT includes, but is not limited to, representatives from: law enforcement, social service agencies, prosecution, mental health, and victim advocacy. See Member Agencies on Page 4.

D. Responsibilities

- Provide a forum for education and discussion, assessment and review of cases.
- Provide a forum for identifying, discussing and resolving interagency issues.
- Overseeing the implementation of the interagency vulnerable adult abuse protocol. This includes review and update of the protocol as needed.
- Minimize trauma to victims.
- Review the progress of the working team.
- Assist in the development of education/training for MDT agency members with an emphasis on consistency and quality.
- Review and address system issues and evaluate system response.

- Build and maintain effective working relations.
- Strengthen county wide communication.
- Understand each other's roles and barriers.
- Staff difficult and/or high risk cases.
- Ensure compliance with these protocol guidelines and with statutory mandates.
- Identify and pursue resources.
- identify needed legislation.
- Maintain clear focus on mission/purpose.
- Address other relevant matters relating to vulnerable adult abuse cases.

The District Attorney shall designate a member of his or her staff to chair the MDT. The MDT Chair shall have the responsibility and authority for setting up subcommittees to review and make recommendations to the **MDT**.

E. Records & Minutes

All information and records acquired by the MDT in the exercise of its duties are confidential. They may only be disclosed in the course of vulnerable adult abuse case review.

Minutes will be kept by the MDT Coordinator and will be distributed to the members either before or at the next meeting.

The Clackamas County Vulnerable Adult MDT meets on the 3rd Wednesday of the month at 10:00 am at the Development Services Building, Room# 410 located at 150 Beavercreek Road, Oregon City. The Clackamas County MDT Chair is Senior Deputy District Attorney John D. Wentworth.

Clackamas County Multi-Disciplinary Team Vulnerable Adult Abuse Protocol

II. DEFINITIONS

A. **Elderly Person:** Any person 65 years of age or older.

B. **Abuse**

1. Any physical injury to a vulnerable adult caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.
2. Neglect.
 - a. Failure to provide the care, supervision or services necessary to maintain the physical and mental health of a vulnerable adult that may result in physical harm or significant emotional harm to the person;
 - b. The failure of a caregiver to make a reasonable effort to protect a vulnerable adult from abuse; or
 - c. Withholding of services necessary to maintain the health and well-being of a vulnerable adult which leads to physical harm of that person.
3. Abandonment, including desertion or willful forsaking of a vulnerable adult or the withdrawal or neglect of duties and obligations owed a vulnerable adult by a caretaker or other person.
4. Willful infliction of physical pain or injury upon a vulnerable adult.
5. An act that constitutes the crime of:
 - a. Rape in the First Degree;
 - b. Sodomy in the First Degree;
 - c. Unlawful Sexual Penetration in the First Degree;
 - d. Sexual Abuse in any degree;
 - e. Public Indecency; or
 - f. Private Indecency.
6. Verbal abuse of a vulnerable adult.
7. Financial exploitation of a vulnerable adult.
8. Involuntary seclusion of a vulnerable adult for the convenience of a caregiver or to discipline the person.
9. A wrongful use of a physical or chemical restraint of a vulnerable adult, excluding an act of restraint prescribed by a licensed physician and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.
10. Any death of a vulnerable adult caused by other than accidental or natural means.

C. **Adults with Disabilities:** A person 18 years of age or older with:

1. A developmental disability who is currently receiving services from a community program or facility or who was previously determined eligible for services as an adult by a community program or facility;

2. A mental illness who is receiving services from a community program or facility; or
3. A physical disability.

D. Caregiver: An individual, whether paid or unpaid, or a facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

E. Community program: A community mental health and developmental disabilities program as established in ORS 430.610 to 430.695.

F. Facility

1. A **long term care facility**, that is, a facility with permanent facilities that include inpatient beds, providing medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director of Human Services, to provide treatment for two or more unrelated patients. "Long term care facility" includes skilled nursing facilities and intermediate care facilities but may not be construed to include facilities licensed and operated pursuant to ORS 443.400 to 443.455.
2. A **residential facility**, that is, a residential care facility, residential training facility, residential treatment facility, residential training home, residential treatment home, or an assisted living facility as those terms are defined in ORS 443.400.
3. An **adult foster home**, that is, a family home or facility in which residential care is provided in a homelike environment for five or fewer adults who are not related to the provider by blood or marriage.

G. Financial Exploitation

1. Wrongfully taking the assets, funds or property belonging to or intended for the use of a vulnerable adult;
2. Alarming a vulnerable adult by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out;
3. Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by a vulnerable adult; or
4. Failing to use the income or assets of a vulnerable adult effectively for the support and maintenance of the person.

H. Intimidation: Compelling or deterring by threat.

I. Law enforcement agency (LEA):

1. Any city or municipal police department;
2. Any county sheriff's office;
3. The Oregon State Police;
4. Oregon Department of Justice; or

5. Any district attorney.

J. Public or private official:

1. Physician, naturopathic physician, osteopathic physician, chiropractor or podiatric physician and surgeon, including any intern or resident, psychologist {adult abuse only};
2. Licensed practical nurse, registered nurse, nurse's aide, home health aide or employee of an in-home health service;
3. Employee of the Department of Human Services, county health department or community mental health and developmental disabilities program;
4. Peace officer;
5. Member of the clergy;
6. Licensed clinical social worker;
7. Physical, speech or occupational therapists;
8. Senior center employee;
9. Information and referral, outreach or crisis worker;
10. Attorney (adult abuse only);
11. Licensed professional counselor or licensed marriage and family therapist;
12. Any public official who comes in contact with elderly persons or adults in the performance of the official's official duties; or
13. Firefighter or emergency medical technician.

K. Services: Includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an elderly person or adult.

L. Sexual abuse:

1. Sexual contact with a vulnerable adult who does not consent or is considered incapable of consenting to a sexual act due to mental defect, mental incapacitation or physical helplessness;
2. Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;
3. Any sexual contact between an employee of a facility or paid caregiver and a vulnerable adult served by the facility or caregiver;
4. Any sexual contact between a vulnerable adult and a relative of the vulnerable adult other than a spouse; or
5. Any sexual contact that is achieved through force, trickery, threat or coercion.

Note: Sexual abuse does not mean consensual sexual contact between a vulnerable adult and a paid caregiver who is the spouse or partner of the vulnerable adult.

M. Sexual contact: Any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

N. Social Service Agency: Includes, but is not limited to:

1. Seniors and People with Disabilities Services;
2. Clackamas County Behavioral Health, Adult Protective Services;
3. Department of Human Services, Adult Protective Services;
4. Clackamas County Developmental Disabilities Services; and
5. Department of Human Services/Oregon Health Authority, Office of Investigations and Training.

O. Verbal abuse: To threaten significant physical or emotional harm to a vulnerable adult through the use of:

1. Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or
2. Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

P. Vulnerable Adult:

1. Any person 65 years of age or older; or
2. A person 18 years of age or older with:
 - a. A developmental disability who is currently receiving services from a community program or facility or who was previously determined eligible for services as an adult by a community program or facility;
 - b. A mental illness who is receiving services from a community program or facility; or
 - c. A physical disability.

III. REPORTING ALLEGATIONS OF ABUSE

A. Reporting Parties:

1. Voluntary reporters (e.g., victim, family, friends, neighbors, others);
2. Mandatory reporters (e.g., medical providers, law enforcement, clergy, psychologists, and firefighters (See Appendix A: ORS 124.060; 430.765: Duty of Officials to Report).
 - a. Any mandatory reporter who has reasonable cause to believe that any vulnerable adult with whom the official comes in contact, while acting in an official capacity, has suffered abuse shall report or cause a report to be made by following the procedure set forth in section B. (See Appendix A and 8: ORS 124.065; 430.737).
 - b. Any mandatory reporter who has reasonable cause to believe that any person with whom the official comes in contact while acting in an official capacity has abused a vulnerable adult, shall report or cause a report to be made by following the procedure set forth in section B. (See Appendix A and 8: ORS 124.065; 430.737).
 - c. NOTE: A psychiatrists, psychologists, members of the clergy and attorneys are not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295.

B. Who to Call: Allegations of abuse against vulnerable adults must be reported immediately to the appropriate agency as listed below, or to a law enforcement agency.

1. Adults 65 years or older and/or adults with physical disabilities: DHS/Adult Protective Services - 971-673-6655.
2. Adults with Developmental Disabilities: Clackamas County Health, Housing and Human Services - 503-723-4868 or 503-557-2874.
3. Adults with Mental Illness: Clackamas County Health, Housing and Human Services: 503-655-8585.

C. Required Information: Reports of abuse must include the following information, if known:

1. The name and address of the elderly person or abused adult;
2. The name and address of any person (s) responsible for the care of the vulnerable adult;
3. The nature and extent of the abuse including any evidence of previous abuse;
4. The explanation given for the abuse;
5. Any information that led the person making the report to suspect that abuse has occurred;
6. Any other information which the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator;
7. The date of the incident; and
8. The venue where the abuse occurred.

IV. REPORT RECEIVED

A. Social Service Report to Law Enforcement

1. When a report of a possible crime is received by the social service agency, the agency shall notify by fax the LEA having jurisdiction within the county where the report is made.
2. If the social service agency determines there is reason to believe a crime of abuse has been committed, the social service agency shall immediately notify by fax the LEA having jurisdiction within the county where the report is made. The LEA must confirm to the social service agency by fax its receipt of the notification within 2 business days.
3. When a report is received by a LEA, the agency must immediately notify by fax the LEA having jurisdiction if the receiving agency does not. The receiving agency must also immediately notify by fax the appropriate social service agency in the county where the report was made.

B. Investigating Abuse Allegations

1. Upon receipt of an allegation of abuse of a vulnerable adult, an appropriate social service agency or LEA shall cause an investigation to be commenced promptly to determine the nature and cause of the abuse.

NOTE: When practical, the social service agency and LEA should investigate the allegations together. This will satisfy both agencies requirements while avoiding the duplication of interviews.

2. Investigations shall be conducted in a manner set forth by the policies of the respective agencies and must include:
 - a. A visit to the named vulnerable adult, and
 - b. Communication with those individuals having knowledge of the facts of the particular case.
 - c. NOTE: If the alleged abuse occurs in a residential facility, the social service agency must conduct an investigation regardless of whether the suspected abuser continues to be employed by the facility.
3. If the social service agency finds reasonable cause to believe that a crime of abuse has occurred, the agency must promptly notify the appropriate law enforcement agency in writing by fax.
 - a. Within 3 business days of receiving this notification, the LEA shall notify the department by fax:
 1. that there will be no criminal investigation, including an explanation of why there will be no criminal investigation;
 2. that the investigative findings have been given to the district attorney's office for review; or
 3. that a criminal investigation will take place and the assigned case number.
4. If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the agency shall notify the appropriate social service agency in writing by fax.

5. Upon completion of the evaluation of each case, the social service agency shall prepare written findings that include recommended action and a determination of whether protective services are needed.
- C. Investigations of Abuse in Care Facility:** Such investigations shall be carried out in compliance with the applicable Oregon Revised Statutes, administrative rules and this Protocol.

V. Criminal Prosecution

A. Pre-Charge Investigation

1. Investigators are encouraged to consult with the Deputy District Attorney (DDA) regarding any legal issues that arise during or from the investigation.
2. If a LEA gives the findings of the social service agency to the District Attorney's Office for review, within 5 business days the assigned DDA shall notify the social service agency that the DDA has received the findings and shall inform the social service agency whether the findings have been received for review or for filing charges. A DDA shall make the determination of whether to file charges within 6 months of receiving the findings of DHS.

B. Initiation of Legal Proceedings by the Deputy District Attorney:

1. The DDA has discretion and responsibility for initiating legal proceedings.
2. The DDA reviews reports submitted by police and social service agency to determine appropriate charge(s) to file.
 - Incomplete reports are returned to the LEA for completion of documentation or evidence analysis.
 - When further investigation is required, the case is returned to the LEA for follow up.
 - The DDA may consult with police, victim, witnesses, attorneys, victim advocate, social service agency, family, or friends as necessary.
 - Investigating officers may resubmit cases to the DDA with the additional information that will assist in the prosecution.
3. The case will be assigned to a victim advocate with the District Attorney's Office.
4. Procedures when prosecution is declined.
 - The DDA sends a written notice to the police agency and social service agency.
 - The DDA directs victim advocates to inform the victim(s).
 - The DDA informs other interested parties of the decision.
 - The decision to decline may be subject to reevaluation depending on new information received in the investigation.

C. Pre- Trial

1. If requested, the DDA will consult with the victim(s) before completing negotiations on a case.
2. Each case involving a Measure 11 charge will be staffed by the Measure 11 committee before an offer is made.
3. Measure 11 committee consists of the Chief Deputy District Attorney, the Senior Deputy District Attorney, and the DDAs assigned to prosecute Measure 11 offenses. The committee will consider all appropriate factors in making plea offers.
4. If the DDA files charges stemming from the findings of the social service agency and makes a determination not to proceed to trial, the district attorney shall notify the social service agency of the determination within 5 business days and shall include information explaining the basis

for the determination.

D. Trial

1. The DDA must decide whether or not to proceed to trial and makes all the decisions during the course of the trial.
2. Both ODA and the victim advocate are available to support the victim during the course of the trial.
3. The defendant has the right to elect to have the case decided either by a jury or a judge.
4. Depending on the victim's mental ability and necessity for successful prosecution, a pre-trial competency hearing may be required to determine whether the witness is competent to testify in court.
5. A jury in a jury trial or a judge in a court trial decides the defendant's guilt or innocence and renders a verdict on each charge.

VI. Data Collection and Reporting

- A.** At the December meeting of the MDT, each member agency shall submit information regarding the preceding 12 months in Clackamas County; specifically, the number of:
 - 1. Substantiated allegations of abuse of adults;
 - 2. Substantiated allegations of abuse referred to law enforcement because there was reasonable cause found that a crime had been committed;
 - 3. Allegations of abuse that were not investigated by law enforcement;
 - 4. Allegations of abuse that led to criminal charges;
 - 5. Allegations of abuse that led to prosecution;
 - 6. Allegations of abuse that led to conviction.

- B.** By January 30 of each year, the MDT shall report this information to the Department of Justice and the Oregon Criminal Justice Commission.