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| Division of Public HealthBureau of Aging and Disability ResourcesOffice on Aging | **MODEL TEMPLATE****ONLY** | b_w_dhslogo_wtext_ |

**MOU BETWEEN COUNTY ELDER ADULTS/ADULTS-AT-RISK AGENCY
AND
LAW ENFORCEMENT**

**This Memorandum of Understanding between the Wisconsin County Elder Adults/Adults-at-Risk Agency and the Wisconsin County Sheriff's Department and/or City of Wisconsin Police Department becomes effective when all parties have signed and dated this document.**

**Purpose**

The Wisconsin County Elder Adults/Adults-at-Risk[[1]](#footnote-1) (EA/AAR) Agency and the Law Enforcement agencies in Wisconsin County recognize the need for a coordinated and cooperative response to protect adults at risk and keep them safe. This Memorandum of Understanding is intended to establish a uniform process for response to and investigation of reports of abuse, neglect and financial exploitation.

This Memorandum of Understanding also complies with Wis. Stats § 46.90(3)(a) and 55.043(1g) requiring county EA/AAR agencies to develop a policy for notifying and working with law enforcement agencies to respond to and protect adults at risk.

See attached Appendix A for definitions.

Collaboration

Wisconsin County Law Enforcement and the EA/AAR Agency mutually agree that interdisciplinary interventions are the most effective method of resolving cases of abuse, neglect and exploitation of adults at risk. The Wisconsin County EA/AAR Agency has established an Interdisciplinary Team (I-Team) as required under the elder abuse funding contract. The purpose of the I-Team is to improve practice and collaboration between a wide variety of professionals and disciplines, to identify and address gaps in service, and to increase community awareness.

When complex cases arise, the above agencies agree that they will involve professionals from the I-Team to provide consultation and help develop the best responses for the cases involved. This collaborative approach ensures:

* sharing of available knowledge and resources,
* elimination of duplication of services,
* effective system of client referral, assessment and response,
* better coordination of criminal investigation, and,
* a shared commitment to victim safety and holding abusers accountable.

Representation of law enforcement on the Wisconsin County Elder Adults/Adults-at-Risk I-Team is essential and each law enforcement agency is encouraged to participate. Additionally, each law enforcement agency is asked to identify a contact person for assistance or consultation for human services staff in elder or adult at risk cases.

The Role of Law Enforcement in Responding to Reports of Abuse, Neglect, Self-Neglect and Financial Exploitation of Adults at Risk.

Law enforcement personnel are responsible for protecting the community with a focus on finding, investigating and prosecuting crime. Law enforcement also has a significant role in protecting adults at risk through investigating crimes by alleged abusers or through securing adults at risk who are likely to harm themselves or others. EA/AAR staff may consult with law enforcement or ask an officer to accompany him or her when responding to abuse, neglect or financial exploitation of an adult at risk.

* Law enforcement will accompany the EA/AAR agency worker if, based on the report details, the worker believes s/he or the adult at risk may be injured or harmed during response to the report of abuse, neglect or financial exploitation. Examples of situations that may require law enforcement accompaniment include the presence of alcohol, drugs, weapons, dangerous animals or a history of prior calls for service.
* Law enforcement will be asked to act or accompany an EA/AAR agency worker when impediments such as interference by a guardian, caregiver or family member are preventing an agency worker from talking with the adult at risk.
* Law enforcement should contact the EA/AAR agency when an investigation leads the officer to believe that an individual may be at-risk of self-neglect, neglect, financial exploitation or abuse. Upon receiving the referral, the EA/AAR staff will make a determination on response required. See Appendix C for a sample referral form.
* Law enforcement may contact APS when an adult at risk response or criminal investigation leads the officer to believe that there is a need for emergency protective placement.
* Law enforcement agencies will assume primary responsibility for the collection, processing, preservation, and storage of physical evidence in suspected cases of criminal abuse, neglect or financial exploitation of an adult at risk.
* Law enforcement will advise the EA/AAR agency when any criminal investigation involving abuse, neglect or financial exploitation of an adult at risk is referred to the District Attorney’s office, the Wisconsin Department of Justice, or the U.S. Attorney’s Office for prosecution.
* At the conclusion of any criminal investigation, whether done independently by law enforcement or completed jointly with the EA/AAR agency, law enforcement will provide the EA/AAR agency with the relevant information, police reports, etc. for them to complete their state required reporting.
* Law enforcement will provide contact information for a liaison with the EA/AAR Agency. The liaison should be available as an active participant on the EA/AAR I-Team.

The Role of the EA/AAR Agency in Responding to Reports of Abuse, Neglect, Self-Neglect and Financial Exploitation of Adults at risk.

The ultimate role of EA/AAR agency staff is to protect an adult at risk from behaviors or conditions that are placing his or her health, physical safety, welfare or financial security in substantial jeopardy. In some cases, the best way to protect an adult at risk is to work with law enforcement to remove the abuser. Law enforcement also has experience and tools to respond to situations where the adult at risk may harm himself/herself or others.

* Law enforcement may consult with the EA/AAR agency or ask a worker to accompany him or her when responding to calls that involve an adult at risk especially in cases where an emergency protective placement may be required.
* Upon receiving the referral from law enforcement, the EA/AAR staff will make a determination on response required within 24 hours as required under Wis. Stats. 46.90(5)(a) 1. and 55.043(1r)(a) 1g.
* The EA/AAR agency response may include investigating reports to determine need for legal interventions, petitioning for protective services or placement or assisting with guardianship petitions if necessary to prevent abuse, neglect, or financial exploitation.
* The EA/AAR agency may provide ongoing court liaison regarding protective placement issues. This includes, but is not limited to, conducting an annual review of court-ordered placements (i.e., Watts Reviews).
* EA/AAR staff will take appropriate emergency action including emergency protective placement under Wis. Stats. 55.06 if the agency considers the emergency action is in the best interest of the adult at risk and the emergency action is the lease restrictive appropriate intervention.
* The agency worker should call 911 or contact law enforcement immediately if a report to EA/AAR leads the worker to believe that a crime is occurring or imminent or if s/he believes that substantial physical harm, irreparable injury, or death may occur to an adult at risk.
* The agency worker should contact law enforcement if the worker’s assessment of a report of abuse, neglect or financial exploitation leads him/her to believe that a criminal act has occurred.
* EA/AAR agency staff should contact law enforcement if the adult at risk asks the worker to contact law enforcement.
* The Wisconsin County EA/AAR Agency will provide contact information for a liaison with the law enforcement agency.

Shared Roles in Responding to Reports of Abuse, Neglect and Financial Exploitation of Adults at risk.

Both the EA/AAR agency and law enforcement should work together on cases involving conditions such as aggressive, dangerous or violent behavior by the adult at risk, the alleged abuser, or other members of the household when the following actions are necessary:

* an emergency detention pursuant to Wis. Stats. 51.15;
* an emergency protective services pursuant to Wis. Stats. 55.13; or
* an emergency protective placement pursuant to Wis. Stats. 55.135.
* transporting the victim for performance of a medical examination, pursuant to Wis. Stats. 46.90(5)(br) or 55.043(1r)(c)
* treatment needs related to alcohol or drug abuse under Wis. Stats. 41.45(11)(b)
* an individual-at-risk restraining order under Wis. Stats. 813.123

Law enforcement and EA/AAR workers may work as a team to develop an investigation plan, including interviewing witnesses and securing and holding information and evidence. Joint investigations minimize the number of interviews an adult at risk must experience and assures proper collection and protection of information in a form that will be relevant and admissible in court.

Criminal Investigations

It is recognized that law enforcement and human services have different roles, functions and responsibilities during the investigation of suspected criminal offenses committed against an adult at risk. The parties will conduct separate investigations consistent with their agency's standard operating procedures. Parties agree to work cooperatively and with an open exchange of information, to the extent allowed by law.

Training

Wisconsin County Law Enforcement and Wisconsin County EA/AAR Agency agree to work together collaboratively to mutually develop and conduct training programs for both law enforcement and agency staff. Trainings might include information regarding:

* how law enforcement can recognize abuse, financial exploitation, neglect and self-neglect,
* elder adults/adults-at-risk reporting laws (Wis. Stats. 46.90 and 55.043),
* what EA/AAR staff can do to protect evidence or assist in any pending investigation,
* how to reduce trauma of the adult at risk during an investigation,
* individual-at-risk restraining orders (§ 813.123), and
* criminal statutes that may be used in remedying abuse, financial exploitation and neglect. See Appendix B for list of crimes related to elder adults/adults-at-risk.

Representatives of community-based agencies (e.g., domestic violence and sexual assault programs, community mental health programs, community programs serving individuals with disabilities, substance abuse service providers, county aging and disabilities resource center) may also participate in the development and provision of these trainings, as appropriate.

Confidentiality

The Wisconsin County EA/AAR Agency and Law Enforcement Agency acknowledge that reports of suspected elder adult/adult-at-risk abuse are confidential and may not be released except in circumstances indicated under § 46.90(6)(b)1-10. or § 55.043(6)(a)1-10.

In making a report, law enforcement officers and EA/AAR agency workers will not be required to provide personal information (home address, date of birth, etc); agency contact information will be adequate.

Memorandum Review

Law enforcement and the Wisconsin County EA/AAR Agency will meet as needed to identify issues of mutual concern, to identify solutions relating to elder and adult at risk abuse, neglect, self-neglect and financial exploitation, or to review and amend procedures contained in this Memorandum of Understanding. Each party agrees to meet annually to review this document if significant staffing changes or policy and procedure changes affect the process defined in this Memorandum.

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| Director, Wisconsin County EA/AAR Agency |  | Date |

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| Sheriff, Wisconsin County Sheriff's Department  |  | Date |

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| --- | --- | --- |
|  |  |  |
| Chief of Police, City of Wisconsin Police Department |  | Date |

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| --- | --- | --- |
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| Chief of Police, City of Wisconsin Police Department |  | Date |

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## Appendix A

Definitions

**Adult at Risk**, as defined in Wis. Stat. § 55.043(1e), means any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

**Elder Adult at Risk**, as defined in Wis. Stat. § 46.90(br), means any person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

**Abuse**, as defined in Wis. Stat. § 46.90(1)(a), means any of the following:

1. Physical abuse: intentional or reckless infliction of physical pain or injury, illness, or any impairment of physical condition.
2. Emotional abuse: 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.
3. Sexual abuse: a violation of criminal assault law, s. 940.225 (1), (2), (3), or (3m).
4. Treatment without consent: the administration of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electro-convulsive 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.
5. Unreasonable confinement or restraint: 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 devices, 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.

**Caregiver**, as defined in Wis. Stat. § 46.90(1)(an), means a person who has assumed responsibility for all or a portion of an individual's care voluntarily, by contract, or by agreement, including a person acting or claiming to act as a legal guardian.

**Financial exploitation**, as defined in Wis. Stat. § 46.90 (1) (ed), means 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, as prohibited in s. 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 s. 943.201.
5. Unauthorized use of an entity's identifying information or documents, as prohibited in s. 943.203.
6. Forgery, as prohibited in s. 943.38.
7. Financial transaction card crimes, as prohibited in s.943.41.

**Fiscal Agent**, as defined in Wis. Stat. § 46.90(1)(eg), includes any of the following:

* A guardian of the estate appointed under s. 54.10
* A conservator appointed under s. 54.76
* An agent under a financial power of attorney under s. 243.07
* A representative payee under 20 CFR 416.635
* A conservatorship under the U.S. Department of Veterans Affairs.

**Neglect**, as defined in Wis. Stat. § 46.90(1)(f), means 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 order under Chapter 154, a power of attorney for health care under Chapter 155, or as otherwise authorized by law.

**Self-neglect**, as defined in Wis. Stat. § 46.90(1)(g), means 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.

**Adult protective services** (APS), under Wis. Stat. § 55.02, refers to any services that, when provided to an individual with developmental disabilities, degenerative brain disorder, serious and persistent mental illness, or other like incapacity, keep the individual safe from abuse, neglect, or misappropriation of property or prevent the individual from experiencing deterioration or from inflicting harm on himself or herself or another person.

The terms adult protective services (APS) agency and adult protective services (APS) system are used to refer to the agency or agencies to which the county has assigned responsibility under Wis. Stat. § 55.02 for planning and carrying out the county's protective services responsibility.

Under Wis. Stat. § 55.02(6r), protective services include any of the following:

* Outreach.
* Identification of individuals in need of services.
* Counseling and referral for services.
* Coordination of services for individuals.
* Tracking and follow-up.
* Social services.
* Case management.
* Legal counseling or referral.
* Guardianship referral.
* Diagnostic evaluation.
* Other

**Degenerative brain disorder** means the loss or dysfunction of an individual’s brain cells to the extent that he or she [an individual] is substantially impaired in his or her ability to provide adequately for his or her own care or custody.” [Wis. Stats. 55.01 (1v)]

**Developmental disability** means a disability attributable to brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, intellectual disability, or another neurological condition closely related to an intellectual disability or requiring treatment similar to that required for individuals with an intellectual disability, which has continued or can be expected to continue indefinitely and constitutes a substantial handicap to the afflicted individual. "Developmental disability" does not include dementia that is primarily caused by degenerative brain disorder. (Wis Stat. 51.01 (5) (a)-(b))

**Serious and persistent mental illness** means a mental illness that is severe in degree and persistent in duration, that causes a substantially diminished level of functioning in the primary aspects of daily living and an inability to cope with the ordinary demands of life, that may lead to an inability to maintain stable adjustment and independent functioning without long-term treatment and support, and that may be of lifelong duration. “Serious and persistent mental illness” includes schizophrenia as well as a wide spectrum of psychotic and other severely disabling psychiatric diagnostic categories, but does not include degenerative brain disorder or a primary diagnosis of a developmental disability as defined in Wis. Stats. 51.01 (5) (a), or of alcohol or drug dependence.” [Wis. Stats. 55.01(6v)]

**Other like incapacities** means those conditions incurred at any age which are the result of accident, organic brain damage, mental or physical disability or continued consumption or absorption of substances, producing a condition which substantially impairs an individual from adequately providing for his or her care or custody.

[Wis. Stats. 55.01 (5)]

**Elder Adults/Adults at Risk Interdisciplinary Team:** Given the complexity of APS cases, and the fact that there are often gaps in the services needed to assist victims, a broad range of professionals looking at a case and planning possible interventions and/or care plans is likely to arrive at effective results. Interdisciplinary teams provide many benefits including:

* Support and validation for case workers as well as consultations on complex case;
* Increased knowledge of community resources;
* Wider range of alternative solutions to consider; and,
* Better coordination of interagency efforts.

**Individuals-at-Risk Restraining Order:** As defined in Wis. Stats. 813.123, a restraining order is more accurately called a “temporary restraining order.” A temporary restraining order is a court order that may remain in effect no longer than seven days unless extended by the court. At the end of this period, the order either ends or is replaced by another court order called an injunction. An injunction can last up to four years. Both types of orders require the respondent to stop engaging in specific behavior for the time period noted in the order. If a respondent violates an order, he or she may be arrested, fined or imprisoned.

The individual at risk restraining order may be petitioned for by:

* an elder adult/adult at risk,
* his or her guardian,
* an interested person acting on behalf of an individual at risk, or
* an EA/AAR agency.

## Appendix B

Criminal Code

Some incidents of abuse of the elder persons or other vulnerable adults may constitute one or more crimes codified under Wisconsin State Statutes, including but not limited to:

* Abuse of vulnerable adults [s 940.285]
* Administering dangerous or stupefying drug [s 1941.32]
* Attempted crimes [s 939.32]
* Battery, substantial battery or aggravated battery [s 940.191]
* Battery-special circumstance [s 940.19(6)]
* Consumer fraud and unfair trade practices against elderly or disabled persons [s 100.264]
* Criminal trespass to dwelling [s 943.14]
* Damage to property [s 943.01]
* Disorderly conduct [s 947.01 ]
* Domestic abuse incidents; arrest and prosecution [s 968.075]
* Emotional abuse [as included in the definition of "Intentional Abuse" in s 940. 295(1 )(j ) 1. b.]
* Endangering safety by use of dangerous weapon [s 941.20]
* False imprisonment [s 940.30]
* Forgery [s 943.38]
* Fraudulent writings [s943.39(2)]
* Harassment [s 947.013]
* Injury by negligent handling of dangerous weapons, explosives or fire [s 940.24]
* Intimidation of a victim [s 940.44; s 940.45]
* Kidnapping [s 940.31]
* Misappropriation of personal identifying information or documents [s 943.201 ]
* Mistreating animals [s 951.02]
* Reckless injury [s 940.23]
* Recklessly endangering safety [s 941.30]
* Robbery [s 943.32]
* Sexual Assault [s 940.225]
* Stalking [s 940.32]
* Taking a hostage [s 940.305]
* Tampering with household products [s 941.3271]
* Theft [s 943.201], and,
* Threats to injure or accuse of crime [s 943.30].

## Appendix C

Sample Adults-at-Risk Reporting Form for Law Enforcement

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| Name of individual |  |
| Phone number |  |
| Address |  |
| Other information about this customer that may help in responding to this report. |  |
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|  |
| Date of incident |  |  | Describe the incident |  |
|  |
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|  |
|  |
| Describe anyone else involved in the incident |  |
|  |
|  |
|  |
| Contact information for law enforcement officer |
| Name |  |
| Phone number |  |
| What actions were taken by law enforcement? |  |
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1. If the Elder Adults-at-Risk and the Adults-at-Risk agencies are separate, both agencies will need to work with the financial institution to develop a combined MOU or each agency will develop a separate MOU. [↑](#footnote-ref-1)