

Accessing Safety in Hennepin County

The Arc Greater Twin Cities and the Sexual Violence Center

COLLABORATION CHARTER

December, 2014

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Introduction

The collaboration between The Arc Greater Twin Cities (The Arc) and the Sexual Violence Center (SVC) endeavors to create sustainable, systemic changes within our agencies that will result in improved services for victims/survivors of sexual violence in our community who have intellectual and/or developmental disabilities (I/DD).

Both The Arc and SVC have served the Hennepin County community for decades. To improve service delivery and benefit from the professional expertise of both agencies, The Arc and SVC have an established partnership that has flourished. An informal relationship between the agencies had existed for several years when SVC invited The Arc to join the ongoing Carver County Sexual Assault Interagency Council, a multidisciplinary response team, in 2009. The partnership expanded further in 2010 when The Arc joined Hennepin County's Sexual Assault Multidisciplinary Action Response Team (SMARTeam).

Historically, agencies serving people with disabilities and sexual violence agencies have not been formally connected. This disconnect compounds the multiple barriers that exist for people with disabilities who wish to access services that would be best served by collaboration between service agencies. The Arc and SVC have come together to address this gap in service and attend to the needs of victims/survivors with I/DD. This three-year project, funded by the federal Office on Violence Against Women (OVW), allows our organizations the opportunity to dedicate time and resources so that we can fully commit to improving services for people with I/DD who have been subjected to or secondarily affected by sexual

violence. We will create effective, sustainable, safe, and trauma-informed services for anyone who seeks services from either organization.

The following collaboration charter outlines the structure and framework for our collaborative efforts over the three-year grant cycle. We view this charter as our guide for working together effectively in order to fulfill our mission. However, our charter is a fluid document that can be adapted as needed as our partnership develops and grows. In order to ensure that our charter continues to serve our needs, we commit to reviewing the document semi-annually.

Collaboration Framework

Mission

Our collaboration will build our agencies' capacities and identify opportunities to strengthen and align our practices to support victims/survivors with I/DD and their communities. We will work in tandem to foster trauma-informed services that empower victims/survivors with the skills and resources they need to heal from the effects of sexual violence.

Vision

Our collaboration envisions a person-centered, trauma-informed, fully accessible system of services provided by people who are confident and capable of supporting persons with I/DD affected by sexual violence. We will create a community approach that rejects victim hierarchies and ensures that victims/survivors with I/DD are believed, empowered, and supported.

Values

The collaboration between The Arc Greater Twin Cities (The Arc) and the Sexual Violence Center (SVC) is based upon an understanding of the inherent dignity and worth of every human being. We affirm that each person has the right to be protected under international human rights law, which includes the rights to equality of opportunity and non-discrimination; full and effective participation

and inclusion in society; personal safety; and protection from all forms of mistreatment.¹

- We believe that each person’s **right to autonomy and self-determination** includes the right to live, learn, work, play, make decisions, and be involved in relationships in the least restrictive, safest, and most accessible setting of their choosing.
- We honor each person’s **right to accessibility** by ensuring that support is fully accessible in programmatic, physical, financial, cultural, and attitudinal terms according to each person’s individual needs.
- We emphasize that each person’s **right to safety** includes freedom from sexual violence. We affirm that individuals have the right to define what safety means for them.

Accessibility – We commit to working collaboratively to consciously address accessibility throughout our project. We affirm that people with I/DD who have been subjected to sexual violence deserve services that are physically, emotionally, financially, and culturally appropriate to their needs.

Accountability – We recognize that people without I/DD carry ability privilege, and we are conscious of a) our responsibility to respect, prioritize, listen to, involve, and otherwise engage with people with I/DD, and b) our commitment to engage in self-reflection on our privileges as we conduct this work.

Agency and Self-Determination – We value each person’s right to make the decisions that affect their own lives. This includes the control by people with I/DD

¹ These rights are outlined in the Universal Declaration of Human Rights (ratified 1949) and the Convention on the Rights of Persons with Disabilities (effective 2008).

over their daily lives and their future, and victims'/survivors' decisions about the services they use or decline. Victims/survivors with I/DD are the experts of their own experience and must be empowered to control their own lives. We will ask for consent from anyone who participates in the work of our collaboration grant at all stages of their participation. We will not assume implied consent due to participation in any aspect of our grant work.

Anti-Oppression – We believe that our work must respond to all forms of oppression that present obstacles to people with I/DD who are seeking victim/survivor services. Classism, ableism, racism, homophobia, transphobia, and other forms of oppression compound and complicate the barriers to service faced by people with I/DD. No one single form of oppression outranks or in any way diminishes the harmful effects of other forms of oppression. See also: *Inclusion*

Collaboration – We value our two organizations' collective expertise, time, energy, and resources mobilizing to meet the needs of victims/survivors of sexual violence with I/DD. We agree to work together as a team to bring about sustainable change in both of our organizations.

Collective wisdom – We value the experiences of those who have gone before us. In our work we will engage the larger community of disability services and anti-violence organizations to solicit their best practices to learn from our peers the collective knowledge that can inform the development of our grant work.

Empowerment – We value the development of supportive environments that provide people with the skills, knowledge, and resources to make their own choices and reclaim their autonomy.

Inclusion – We recognize and affirm that our differences enrich our lives. We will show respect for victims/survivors with I/DD regardless of personal characteristics

or status. We affirm that self-advocates have complex identities. We understand that when multiple forms of oppression intersect, very specific barriers emerge; we acknowledge that in order to improve victim/survivor services for people with I/DD, we must address those barriers.

Innovation – We welcome new and creative strategies for providing person-centered, trauma-informed, and fully accessible services for persons with I/DD who have been subjected to sexual violence. We acknowledge that innovative solutions come from multiple places. We commit to learning best practices and creating our own unique solutions.

Integrity – We believe our actions must be consistent with our stated beliefs and values. We will strive, for example, to use non-violent language in our interactions.

Non-Clinical – We recognize that victims/survivors and people with I/DD have historically been harmed by medical and psychiatric practitioners who have pathologized them, viewing or characterizing them as medically or psychologically abnormal. This divorces victims/survivors from real change because it individualizes the problem. We affirm that people react to trauma in a wide variety of ways that defy clinical categorization.

Person-Centered – We value a person-centered approach to discovering and acting upon what is important to a person. We recognize that we must listen to and learn about people’s preferences, choices, and needs from the people at the center of our work. Person-centered work can only come from respect for the dignity and completeness of the individual. Person-centered work calls for a sustained search for effective ways to deal with difficult barriers and conflicting demands.

People-First Language – We value using people-first language in our collaboration when referring to, speaking with, or communicating about people with disabilities. People-first language refers to “people with disabilities” rather than “disabled people” or “the disabled.” We do, however, respect the ways individual people self-identify and the labels they choose to embrace.

Respectful communication – As a committee we will engage in respectful communication in all interactions. We value different communication styles and will foster an environment in which different communication styles are encouraged and embraced.

Trauma-Informed – We believe in providing support to victims/survivors with I/DD in a way that meets each person’s individual needs and addresses the impact of traumatic events. This means creating an environment in which victims/survivors feel safe, comfortable, supported, believed, and in control of what is happening on their behalf. We will use trauma-informed principles at all stages of our work.

Shared Assumptions

The following assumptions, already shared by both SVC and The Arc, are the common ground that provides the foundation of our collaboration. We will strive to exemplify these values in our work with victims/survivors with I/DD and in our interactions within our collaboration committee.

1. Victims/survivors of sexual violence with intellectual and/or developmental disabilities (I/DD) experience serious health disparities in comparison to the population at large. These disparities include barriers to accessing high quality health care and victim/survivor services.

2. The rate of sexual assault against people with I/DD, estimated to be up to four times higher than adults without these disabilities, constitutes a public health emergency.²
3. People with I/DD are no less credible than others who disclose sexual violence.³
4. While our collaboration will focus on systems change, we also recognize that social change is necessary in order to more fully respond to the effects of sexual violence on people with I/DD.
5. We recognize and affirm that our differences enrich our lives. We will show respect for each other, our clients, self-advocates, and our professional contacts regardless of their background.
6. People with I/DD can have a wide range of capacities and talents, and likewise may experience a wide range of impairments. They may or may not have intellectual, physical, and/or other disabilities.
7. The more ways people are marginalized, the more difficult it may be for them to get the help they need when they have been subjected to sexual violence.

² Martin, S. L., Ray, N., Sotres-Alvarez, D., Kupper, L. L., Moracco, K. E., Dickens, P. A., Scandlin, D., Gizlice, Z. (2006). Physical and Sexual Assault of Women with Disabilities. *Violence Against Women*, 12(9), 823–837. See our Glossary, beginning on page 38, for an explanation of the distinction between sexual assault and sexual violence.

³ There are no valid or tested guidelines that help judge the credibility of trauma stories. Violence Against Women with Disabilities Project of Wisconsin. (2004). *Cross Training Workbook: Violence Against Women with Disabilities*.

8. People with I/DD often experience relationships in their lives where there is an imbalance of power and control.
9. Victims/survivors of sexual violence are the experts of their own experience and are therefore their own best advocates. To the fullest extent under the law, victims/survivors must be recognized as decision-makers, including, but not limited to, seeking medical attention (e.g. evidentiary exams) and reporting to law enforcement or other authorities.
10. Sexual violence is characterized by the violation of the victim/survivors' personal agency. Perpetrators use sexual violence to assert power and control over victims/survivors.⁴ Responses to sexual violence must honor victims/survivors' agency by respecting the boundaries they set—including boundaries regarding their privacy—to the fullest extent possible under the law.
11. Families and/or caregivers can be crucial supports for a person who has experienced sexual violence. At the same time, people with I/DD are more likely to be subjected to sexual violence perpetrated by their families and/or caregivers than by others in their lives. Given this reality, victims/survivors must be in control of who will be involved in their support and recovery.

⁴ We use the words perpetrator, aggressor, and assailant interchangeably. Our usage of words that are most commonly associated with the criminal legal system does not indicate endorsement of the criminal legal system as the only legitimate way to frame sexual violence or the only legitimate means for victims/survivors to seek justice.

12. Genuine consent involves active agreement free from coercion, threat, or force. Giving consent to one sexual act does not indicate consent to any other act or to the same act in the future. Consent can also be retracted at any time.
13. People with I/DD, like all people, are sexual beings who have a right to seek and engage in self-stimulating and consensual interpersonal sexual behavior.

Collaboration Structure

Collaboration Committee Members

As of this writing, our grant’s collaboration committee consists of two representatives from SVC and one from The Arc, along with two project co-directors (PDs).

Project Co-Directors

Robyn Browning – Abuse Prevention Project Manager, The Arc

Leah Entenmann – Disabilities Grant Coordinator, SVC

Member Agency Representatives

Jennifer Greene – Hennepin County Systems Change Program Manager, SVC

Georgann Rumsey – Programs and Services Director, The Arc

Kristen Sukura – Executive Director, SVC

Member Agencies

The Arc Greater Twin Cities

The Arc provides information, assistance, and advocacy services for people with intellectual and/or developmental disabilities, such as Down syndrome, autism, fetal alcohol spectrum disorder, cerebral palsy, and other conditions.

Since 1946 when parents started meeting in a church basement in Minneapolis, The Arc Greater Twin Cities has been committed to creating opportunities and systems change for people with intellectual and developmental disabilities. Its mission is to promote and protect the human rights of people with intellectual

and developmental disabilities, actively supporting them and their families in a lifetime of full inclusion and participation in their communities. The Arc provides information, assistance, and advocacy for education, early intervention, transition to adulthood, health care, housing, abuse prevention, employment and more.

One of the core values of The Arc is social justice. The Arc promotes building advocacy skills for adults with I/DD by developing self-advocates'⁵ strengths in navigating complex systems, pursuing their rights, and developing strategies to solve problems and overcome barriers.

The Arc supports a dedicated team that works on abuse prevention awareness. The Abuse Prevention Team focuses on all types of abuse, including but not limited to sexual, physical, financial, mental, verbal, and emotional abuse. The team offers a variety of trainings around abuse prevention for self-advocates, family members, and professionals. The most commonly requested trainings for self-advocates are titled, "Keeping Safe and Healthy Relationships" and "Stop the Abuse" trainings for family members and professionals. When members of the Abuse Prevention Team are made aware of a situation that involves sexual violence, they work closely with SVC to determine resources, referral, or other action steps needed.

[Sexual Violence Center](#)

The Sexual Violence Center has provided support, validation, referrals, and direct services to victims/survivors of sexual violence aged 12 years and older since 1985. SVC provides services in Hennepin, Carver, and Scott Counties, offering a

⁵ For the definition and usage of the term *self-advocate*, see the Glossary beginning on page 38.

24-hour crisis hotline, crisis support in hospital emergency rooms, in-person counseling, legal advocacy, and support groups. SVC also works to bring sexual violence awareness to schools and the community and to motivate systems change. SVC's mission is to eradicate sexual violence and abuse by:

- Challenging the systems and individuals that promote privilege, oppression and domination,
- Educating those that will join us as advocates and catalysts for change, and
- Supporting those who have been victimized, empowering them to not only survive but thrive, finding power and movement in our collective voices.

SVC advocates are already providing some support services to victims/survivors of sexual violence with I/DD. All SVC advocates undergo 40 hours of state-mandated training, a minimum of one hour of which is delivered by The Arc's Abuse Prevention Team. The Arc makes referrals to SVC as needed. Nevertheless, the OVW Disability Grant will improve SVC's services for people with I/DD by improving internal policies, procedures, and culture at both agencies to actively support victims/survivors with I/DD by ensuring all services are disability-aware and trauma-informed.

Commitments, Roles, and Responsibilities

Shared Commitments

Collaboration Member Agencies

Leadership at both the Sexual Violence Center (SVC) and The Arc Greater Twin Cities (The Arc) agree to dedicate the necessary resources—including labor, expertise, and time—and cooperate with the collaboration committee.

- Leadership at each member agency commits to assessing internal policies, procedures, and overall agency culture and make changes where necessary.
- Leadership at each member agency commits to planning and implementing internal systemic changes.
- Leadership at each member agency agrees to support the project directors and embrace both project directors as members of their own staff in every way possible.

The collaboration committee member from The Arc agrees to:

- Provide organizational and professional knowledge, expertise, and guidance in the field of intellectual and/or developmental disabilities
- Provide expertise on accessibility issues
 - Ensure all communication, grant project materials, and programmatic efforts are in language (written or verbal) that is accessible to all
 - Ensure physical and transportation access to meeting space and grant related activities are addressed
- Represent the interests and views of The Arc in all collaboration activities
- Assess and navigate the internal policies, procedures, and overall organizational culture of The Arc
- Provide expertise in supporting people with I/DD to ensure that the work of the collaboration is consistently person-centered
- Act as the fiscal agent for the project, providing financial oversight and compliance with OVW requirements
- Hire, train, supervise, and host the 1.0 FTE project director (PD)

- Communicate changes, garner support, and inform leadership at The Arc to operationalize the collaboration’s strategic plan

The collaboration committee members from SVC agree to:

- Provide organizational and professional knowledge, expertise, and guidance in the field of sexual violence and victim/survivor advocacy
- Represent the interests and views of SVC in all collaboration activities
- Assess and navigate the internal policies, procedures, and overall organizational culture of SVC
- Provide expertise on physical and emotional safety as it relates to victims/survivors to ensure that the work of the collaboration is consistently trauma-informed and victim-centered
- Hire, train, supervise, and host the 0.5 FTE PD
- Communicate changes, garner support, and engage the SVC community of advocates to operationalize the collaboration’s strategic plan

Collaboration Committee Members

Each individual member of the collaboration committee agrees to:

- Come to every committee meeting and stay for the duration; if adjustments need to be made, committee members will give each other advanced notice and seek ways to make up for the lost opportunity
- Develop and adhere to this collaboration charter
- Learn about their own and their partner agency’s structure and organizational culture

- Make ongoing efforts to learn about the intersection of sexual violence and disability
- Represent the collaboration to their larger agency by informing colleagues of the progress and needs of the collaboration
- Participate in regularly scheduled conference calls with our technical adviser from the Vera Institute and attend site visits
- Take advantage of resources available from the Vera Institute
- Participate in the planning, development, and implementation phases, including but not limited to collaboration charter, project focus memo, needs assessment plan, needs assessment report, strategic plan, and implementation of initiatives

Designation of Responsibilities

Project Directors

The project directors, as co-directors of the collaboration, are jointly responsible for the following:

- Ensure progress on and completion of grant deliverables
- Prepare, finalize, and submit deliverables to OVW and Vera Institute
- Prioritize the interests of the collaboration as a whole over the interests of either agency
- Consult with Vera Institute technical assistance and present best practices to the collaboration committee
- Hold both partner agencies to their commitments

- Maintain open lines of communication with one another and the collaboration committee
- Identify and manage conflict and/or challenges within the collaboration committee in order to mediate for resolution
- Update and maintain the collaboration’s online project management application
- Coordinate and facilitate collaboration meetings; create and distribute meeting agendas and minutes
- Attend all technical assistance events, including conference calls, web-based technical assistance events, site visits, project director’s meetings or other helpful events

0.5 FTE Project Director

The 0.5 FTE project director, based at the Sexual Violence Center, is additionally responsible for the following:

- Seek trainings and other learning opportunities at either SVC or partner agencies and sharing those opportunities with the collaboration committee
- Copyedit deliverables and communications documents
- Arrange and participate in informational exchanges with relevant groups and organizations

1.0 FTE Project Director

The 1.0 FTE project director, based at The Arc, is additionally responsible for the following:

- Store, secure, and dispose of any confidential information collected during the needs assessment process
- Compose and submit semi-annual reports to OVW via the Grants Management System (GMS)
- Compose and submit bimonthly updates to the OVW program specialist, which will be carbon copied to the programs and services director at The Arc.
- Coordinating with the accounting department at The Arc to monitor the grant budget
- Seek trainings and other learning opportunities at The Arc or partner agencies and share those opportunities with the collaboration committee
- Serve as the main contact for technical issues that arise concerning the collaboration's online project management application
- Arrange and participate in informational exchanges with relevant groups and organizations

Decision Making and Conflict Resolution

The collaboration will ground decisions in our collectively authored mission, vision, values, and goals drawing from collaboration members' experience and expertise to inform those decisions.

Decision-Making Responsibilities

Full Collaboration

The full collaboration committee will make decisions regarding philosophical and policy issues, the content of all materials submitted to OVW for approval, any

issues that directly impact The Arc Greater Twin Cities (The Arc) or the Sexual Violence Center (SVC) (e.g., policy or protocol changes), and any decisions that may impact the fulfillment of our mission and/or vision. Resolution of other minor issues that emerge, such as determining who in the collaboration committee will attend trainings, will be first discussed among the project directors, who will propose a solution to the committee for their review.

The Arc

As the fiscal agent for our grant, The Arc holds ultimate decision-making authority over budgetary issues. Both The Arc and SVC agree to comply with all conditions established by our funders. The Arc commits to giving SVC advance notice of changes in budgetary matters made for funder compliance reasons. For non-compliance budgetary changes, The Arc commits to involve the entire collaboration committee when issues arise and will inform all collaboration committee members when decisions are made that impact the budget.

Project Directors

The project directors are empowered by the collaboration to make decisions about the day-to-day functioning and activities of the project. Such work includes editing collaboration materials, consulting with technical assistance from the Vera Institute on non-conflict issues, and scheduling and organizing collaboration meetings.

Decision-Making Methods

To make decisions, we will practice a non-hierarchical consensus process to reach unanimous agreement among collaboration members. Decisions may be made 1)

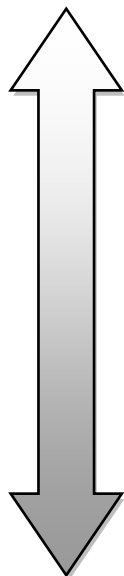
during meetings, 2) on conference calls, or 3) over email if absolutely necessary. We will make every effort to make decisions in person where everyone can be at the table and offer input and advice. In the instance of time-sensitive and other situations where gathering in person is not a viable option, our collaboration has agreed to discuss options and make decisions via conference call, or over email *if absolutely necessary*.

Consensus Process

We value equal participation in the decisions we make as a collaboration. The consensus process creates space for agreement by allowing for input and creative adjustments by each member. Through shared investment and full participation at every stage of our project, we will build trust between agencies and among collaboration members. We will make informed and thoughtful decisions and garner strong support from all members, each of whom will know that their position is carefully considered. We recognize that collective intelligence can produce the robust ideas and lasting decisions needed in an ongoing collaboration project.

The collaboration committee will use a five-degree consensus scale to allow for common understanding and find a solution everyone feels comfortable moving forward with. At times when the committee struggles to reach total agreement, the group will use the scale below to gauge where each committee member currently stands. The sample questions to the right of the scale may be used as a starting point for discussion to work toward greater understanding of each other's perspectives, and from there to group consensus.

Five-Degree Scale



| | |
|---------------------------------|--|
| 1: No – Let’s do something else | Can you tell us why you feel this way? What parts of it don’t you like? Is there anything you do like? |
| 2: Wait – Can we change it? | What further information do you need? What facts could make a difference? |
| 3: Maybe – I have questions | What parts do you like? What parts don’t you like? |
| 4: Ok – It’s good enough | What could make it better? |
| 5: Yes – Let’s do it | |

Steps for Using Five-Degree Scale

1. A plan of action is proposed as part of the discussion.
2. The project directors are responsible for polling the group before moving forward on any decision or discussion. Anyone can request for a poll at any point to determine if the collaboration committee members are on the same page moving forward. Even if it appears that everyone is in agreement, the committee will use this method to determine if there is anything further that needs to be discussed so the committee as a whole can understand and commit to the best version of the decision proposed.
3. The collaboration committee will repeat step 2 until members reach agreement or it is determined that the committee is unable to move forward with the decision at hand. The collaboration committee considers a poll indicating that every committee member is at either four or five to indicate a successful consensus (i.e. the proposal is approved). On the other hand, if

everyone is at a one or a two, the proposal will be abandoned. It is assumed that after discussion no one will remain at 3. If the committee is unable to move forward, the discussion will be tabled and members will have one week to research the ideas and their position. If the committee is unable to move forward after a second discussion, it will follow the conflict resolution strategy.⁶

Philosophy of Conflict

In the course of working collaboratively, we expect that conflicts will arise. Collaboration committee members are expected to assume that each member works from best intentions, to treat each other with respect, to take accountability for their own behavior, and to recognize the relevance of our working agreements. Acknowledging that our committee includes highly experienced sexual violence and intellectual and/or developmental disability professionals with strong communication skills, we believe that most conflicts can be resolved through informal discussion.

We invite conflict into our conversations as we engage in our collaborative process: conflict challenges established opinions, alters long-held patterns of thinking, and encourages us to learn from each other. When conflicts do arise, we will not allow them to deter from our commitment to our mission, values, and vision.

⁶ Adapted from Wilson Strategies (2006) Using a five-degree consensus scale to reach consensus: the cheat sheet, available at <http://www.wilsonstrategies.com/consensus-cheat-sheet.pdf>.

With any conflict that arises among members of the collaboration committee, committee members agree to resolve the conflict on an interpersonal level first. If the conflict cannot be resolved among the immediate parties involved, supervisors will be brought in to mediate. If the conflict is not resolved after involving supervisors, those involved may broach the topic to the full collaboration committee for mediation and/or engage the appropriate resources of each agency (e.g. human resources), as required by the situation.

Other conflict that is not interpersonal such as philosophical, moral, political, or financial conflict will first be discussed among the entire collaboration committee. If the collaboration committee is unable to come to a resolution, the committee as a whole will contact the Vera Institute for mediation. As with interpersonal conflict, if mediation through the Vera Institute is unsuccessful, the collaboration committee will contact OVW for further mediation.

We recognize that there are power differentials within our collaboration committee due to the array of professional positions within SVC and The Arc held by committee members; our collaboration as a whole is unequal due to The Arc's role as primary grant holder. All collaboration committee members are encouraged to express their thoughts and opinions openly without concern of repercussion. Our collaboration committee respects the unique perspective of each member. We will use our differences to gain a richer, deeper understanding of the work we do.

Communications Plan

Our collaboration recognizes that in order to work best together, collaboration members will follow clear expectations and guidelines for both internal and external communications. We have developed the following guidelines to ensure consistent and constructive communication; we may decide collectively to amend this plan as we progress through different phases of the grant. These guidelines are applicable to our grant related work and do not necessarily apply to other inter-agency work that occurs outside of the grant at this time.

Internal Communications

Collaboration Committee

Approach to Respectful Communications

Collaboration committee members will maintain respectful and timely communication with one another. Candid and transparent communication is expected from all committee members in all interactions. Committee members will be forthcoming with concerns and will respond to each other in good faith.

Committee members agree to voice concerns if they feel that communication is not respectful. The committee will discuss the communication and will come to a resolution through thoughtful discussion. Communications between committee members will reflect that all input is valued.

We recognize and embrace the different communication styles among collaboration committee members. We commit to creating space within our interactions so that various communication styles will be encouraged and honored.

Meetings

- Collaboration committee meetings will take place every other week from 2:00 p.m. to 5:00 p.m. at alternating agency locations. The project coordinators will meet with representative(s) from The Arc and SVC separately for a one hour input meetings during weeks when the full committee does not meet. The purpose of the input meetings is to further the work of the grant by allowing time for tasks that do not need the full participation of the committee (e.g. editing documents) and to prepare members for upcoming decisions that will need to be made at subsequent committee meetings.
- Agendas that include location/date/time of meeting, items to be discussed, goals for meeting, and any actions needed prior to meeting will be distributed at least two working days in advance of the meeting. Any committee member can add an item to the agenda. Agenda items must be submitted to the project co-directors three working days in advance of the meeting.
- During collaboration meetings, one project director will facilitate the meeting while the other project director takes minutes. The project director responsible for facilitating the meeting will compose and distribute the agenda. The project director responsible for taking minutes will compose and distribute the minutes within five business days of the meeting.
- There may be times when the regularly scheduled collaboration committee is canceled due to alternative commitments in individual organizations, individual time off, etc.

- All collaboration committee members will make every effort to attend committee meetings. Committee members will communicate schedule changes as soon as possible so an alternative date can be secured.
- If representation from one of the agencies involved cannot attend a scheduled meeting, the collaboration meeting will be canceled or rescheduled.
- If there are current due dates that could be compromised due to a canceled meeting, the committee may compensate for lost time through the extension of the bi-weekly input meetings.
- If the collaboration committee chooses to meet without all committee members present, final decisions that could impact the collaboration's direction will be postponed until the entire committee can discuss the decision as a group. Nothing will be finalized until the collaboration committee as a whole can convene.
- For committee members who cannot be present at a meeting, a conference call into the meeting will be used as a last resort.

Telephone and Email for Decision Making

- Communications involving multiple or all collaboration committee members can be carried out through conference call.
- When decisions need to be made in a timeframe that does not allow for an in-person meeting to take place, decision-making by phone is preferable to email.
- Email communication can be used for information updates and/or scheduling. If it is impossible for the full collaboration committee to meet in person or

Speak on a conference call, email is an acceptable means of communication for the purpose of making decisions within a tight time frame.

Routine Telephone and Email Communication

- For telephone and email communication requiring a response, a response will be expected within 48 hours. If a response is not received by the sender within 48 hours, a follow-up phone call will be made. If no response is received within 24 hours of the follow-up phone call, the committee member forfeits the inclusion of their input on the matter at hand.

Project Management Website

- The collaboration has agreed to use the on-line project management tool FengOffice to post and save collaboration documents. FengOffice is a free and secure website that is supported by the IT department at The Arc.
- Issues with FengOffice should be brought to the attention of the 1.0 FTE Project Director.

Inter-Agency Communications

Between Collaboration Committee and Collaboration Agencies

- Collaboration members are expected to communicate the goals, mission, vision, values, and commitments of the project within their respective agencies.
- Collaboration committee members will keep their respective agencies informed of the status of the project, providing updates as necessary.

- The executive director of the SVC will communicate grant project developments to the board of directors on an as-needed basis and in response to requests.
- The programs and services director of The Arc will communicate grant project developments to the chief executive officer and chief program officer on a regular basis, and as needed to the board of directors.
- The project co-directors will provide quarterly updates to The Arc's program team and semi-annual updates to the leadership team.
- All OVW grant reports will be forwarded for review to the chief program officer and programs and services director at The Arc by the 1.0 FTE project director.

Within Collaboration Member Agencies

- Each agency will abide by the other's requests to keep specific pieces of information confidential. All information shared during committee meetings will be considered acceptable to share within both agencies unless specifically identified as confidential information. No conversations or discussions are confidential unless explicitly stated by any of the parties involved.
- When and if any staff member or representative of either agency desires to provide information about the grant project to others within their own organization, they will consult with the project directors (PDs). PDs will support collaborative agency staff in the development of communications regarding the grant project.
- Should time-sensitive communications be needed, the following groups will be notified in the manner described below by their respective agency's leadership

channels. Messaging will be relayed by leadership within 24 hours of the composition of the message as decided by the collaboration committee.

- Employees – Call one-on-one or group meeting if possible, otherwise employees should access voice mail and check email for agency-wide updates.
- Board members – The CEO of The Arc will immediately inform The Arc’s board members, letting them know the issue, the planned response and the spokesperson for media. The executive director of SVC will keep SVC board members apprised as necessary.

External Communications

Planned External Communications

Our collaboration’s purpose is to build sustainable organizational change to meet our shared mission, vision, and values. We realize there could be external interest in the work we will be doing, and we will strive for clear and consistent communication.

All collaboration committee members will follow these communication guidelines when communicating with key stakeholders, such as allied and partner organizations and the community, whether through in-person discussion, via media, or through social media:

- Staff and leadership at both agencies will use the Public Talking Points when communicating about the grant. To address requests not included in the Public Talking Points, committee members must consult with the full committee.

- We will maintain clear communication within the collaboration and utilize our decision-making process before any proactive public communications are made.
- Point persons from each agency have been identified for all external communications (the project directors, the executive director at SVC, and the community relations director at The Arc). These individuals are responsible to ensure all communication with external stakeholders is vetted and approved by the collaboration committee and OVW, and that there is agreement about the content of the information *before any* external communication takes place.
- Requests from the media will be handled using existing agency channels. The collaboration committee will work together to determine how to respond and will formulate a clear, consistent message.

Communication with the Vera Institute and OVW

- The project co-directors are the primary contacts for communication with the Vera Institute of Justice staff for technical assistance. The project co-directors will engage in a one hour conference call with our technical assistance from the Vera Institute every other week.
- The collaboration committee will engage in a one hour conference call with technical assistance from the Vera Institute on a bimonthly basis (every other month). These calls will occur during regularly scheduled collaboration committee meetings.

- Communication with the Vera Institute will include, but is not limited to, requesting technical assistance, scheduling meetings and site visits, regularly scheduled phone meetings, and requesting assistance with conflict resolution.
- All collaboration committee members may reach out to technical assistance providers at the Vera Institute, striving to seek input first from the collaboration committee when possible.
- The 1.0 FTE project director and the representative from The Arc are the primary contacts for communication with OVW. If other members of the committee wish to communicate with OVW directly, they are to notify either the 1.0 FTE project director or the representative from The Arc prior to initiating communication.
- Communication with OVW will include, but is not limited to, sending products/documents for final approval, budget modifications and updates, grant adjustment notifications, semi-annual reports, quarterly reports, and changes to the collaboration committee (staffing, direction, etc.).

Reactive External Communications

Time-sensitive communications may be needed for situations that threaten the integrity or reputation of The Arc or SVC's grant-related work. These situations could include controversial advocacy positions or circumstances when, in the eyes of the public, either or both organizations have not reacted appropriately. Board members, staff, and agency representatives should *not* comment publicly, but instead refer questions to the executive director of SVC and the chief executive officer and community relations director of The Arc.

Response to Media Inquiries

The collaboration committee will prepare an immediate response for staff/volunteer use, as well as a short media statement once facts are known and The Arc's and SVC's response is determined. While a response is being determined, any public communication will be restricted to our Public Talking Points. Any messages will be crafted to ensure the best interest of the collaboration. The community relations director at The Arc and the executive director of SVC will make statements to media. If approached by the media before a response is determined, agency representatives will respond with "we will have a statement at (specific time) and we are not prepared to comment at this time."

Staff should *not* attempt to answer questions, even if they have the information. Any inquires that should come in via the 24-hour crisis line at SVC will be referred to the executive director during business hours.

Coordinating with Partner Agencies

The designated representatives from The Arc and SVC will coordinate how partner and allied organizations will be informed of any urgent information.

Representatives of The Arc and SVC will agree on what will be communicated and will speak in a unified voice.

- The representatives will follow the planned communications process as closely as possible.
- The representatives will attempt to establish consensus on the message.
- If it is not possible to use the planned communications process due to differing views on messaging the committee will use our conflict resolution flowchart to formulate a plan.

- If we cannot get OVW assistance in a timely manner after following the flowchart, we will refrain from responding until we are able to consult with our funder.

Reactive Communications to Key Audiences

The following key audiences have been identified at each agency as groups that will need to be notified should reactive external communications be needed. To ensure consistent and timely dissemination of information, messaging will be relayed to all groups within 24 hours of the composition of the messaging as decided by the collaboration committee.

1. Key audiences of The Arc – Depending on the severity of the matter, representatives may issue an e-blast for those for whom we have emails, and a phone tree may be used to contact key audiences. Volunteers and contacts may be advised that further updates and information will be sent via The Arc’s e-newsletter and posted on the Web site when it becomes available. The audience for this communication may include:
 - a. Self-advocates
 - b. Regular program volunteers
 - c. Regular Value Village volunteers
 - d. Important external constituents such as key funders, political leadership
 - e. Members of The Arc
 - f. The Arc of Minnesota, other chapters, and The Arc of the United States
2. Key audiences of SVC – Depending on the severity of the matter, the executive director will use discretion in who should be contacted with information and updates. The audience for this communication may include:

- a. Volunteers
- b. Past volunteers
- c. Donors
- d. Allied and partnered agencies

Review and Evaluation of Any External Communications

After any portion of the external communication plan is enacted, the collaboration committee will debrief at the subsequent meeting. The following questions will be addressed:

1. What went well?
2. What missteps were made?
3. What problems could have been foreseen or avoided?
4. What adjustments in the media management plan are needed?
5. What loose ends need to be tied up?
6. How will this impact the future of our collaboration?

Public Talking Points

General Information

Purpose

The purpose of the collaboration is to strengthen the connection between The Arc of the Greater Twin Cities (The Arc) and the Sexual Violence Center (SVC) and open our organizations' systems to each other's resources and knowledge. We will develop a seamless, dynamic system of support for victims/survivors of sexual violence with intellectual and/or developmental disabilities (I/DD) that is trauma-informed and accessible.

Mission

Our collaboration will build our agencies' capacities and identify opportunities to strengthen and align our practices to support victims/survivors with I/DD and their communities. We will work in tandem to foster trauma-informed services that empower victims/survivors with the skills and resources they need to heal from the effects of sexual violence.

Vision

Our collaboration envisions a person-centered, trauma-informed, fully accessible system of services provided by people who are confident and capable of supporting persons with I/DD affected by sexual violence. We will create a community approach that rejects victim hierarchies and ensures that victims/survivors with I/DD are believed, empowered, and supported.

Scope

Our grant is funded specifically for work in Minnesota's most populated county, Hennepin County.⁷ The Arc and SVC will:

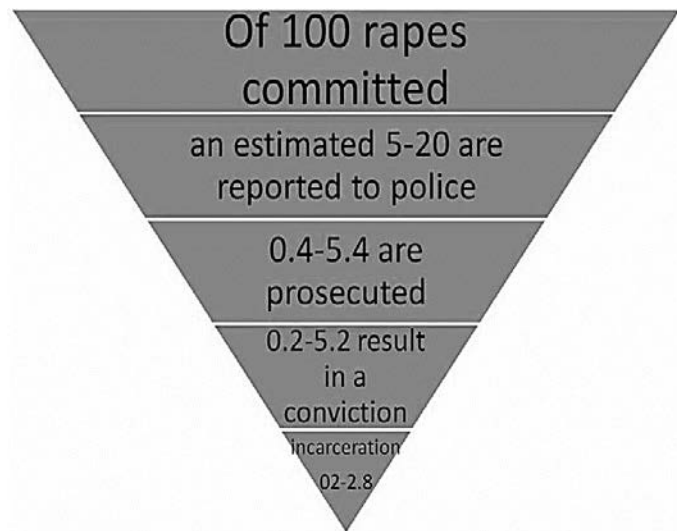
- Develop and enhance policies and procedures within our organizations to improve our responses to individuals with I/DD who have experienced sexual violence. We believe people with I/DD deserve to receive timely information, compassionate advocacy, and respectful support.

⁷ Based on the 2010 US Census, there are 1,152,425 people residing in this county, which represents 21.7% of the state's total population. This percentage is consistent with the proportion of Minnesotans living with a disability who reside in Hennepin County. It is estimated that intellectual disability affects about 1 to 3 percent of the population (Sappok et al., 2010). We estimate that 11,524 to 34,573 individuals with intellectual disabilities live in Hennepin County.

- Increase the awareness, skills, and comfort level of staff, leadership, interns, and volunteers who work directly with victims/survivors of sexual violence with I/DD.⁸

This is not a “services” grant, meaning that we are not funded to provide direct services. The purpose of the grant is to identify and create sustainable, systemic changes within our organizations

that will result in exceptional service response for sexual violence victims/survivors with I/DD and their communities. After the completion of our three-year grant, both agencies will be better positioned to support victims/survivors in Hennepin County, with the intention to expand our impact to the respective service areas of both agencies.



Based on the research of Lonsway and Archambault, 2012.

Rationale

Violence against people with disabilities occurs at an alarming rate. Women with disabilities compared to women without disabilities are more likely to experience physical and sexual violence, an increased severity of violence, multiple forms of violence, and longer duration of violence (Powers, Hughes, & Lund, 2009).

Additionally,

⁸ At SVC, all advocates have received forty hours of training, as required by Minnesota statute, that includes specific guidance provided by The Arc on supporting victims/survivors with I/DD.

- An estimated 83% of women with disabilities experience sexual violence. Women with developmental disabilities have among the highest rates of physical, sexual, and emotional violence by spouses, ex-spouses, boyfriends, and family members of all women with and without disabilities. (J&D Stuart, 2008).
- Approximately one quarter of men with disabilities experience sexual violence (Powers et al., 2008).
- It is reasonable to assume that transgender people with I/DD or other disabilities face disproportionately high rates of victimization, as trans* and gender non-conforming people face higher statistical risk for violent victimization generally (Grant, 2011).

There are numerous explanations for why people with I/DD are at increased risk of sexual violence. Perpetrators perceive that people with I/DD tend to be socially or physically isolated and can be easily manipulated into trusting someone. Perpetrators use tactics that expressly target the vulnerabilities of a person with I/DD, such as taking advantage of a lack of sexual education or knowledge or using coercion, threats, or force to prevent reporting.

Other perpetrators exploit the fact that oftentimes these victims/survivors tend not to report such experiences to others. This is compounded by the common experience of people with disabilities not being believed when they report being subjected to sexual violence. This can also be a reason for increased risk, as perpetrators believe they will not be caught or prosecuted.

Sexual Violence

By SVC's definition, sexual violence is 1) any time sex is used as a weapon to gain power and control over someone else; and 2) any sexual behavior someone is tricked, forced, or coerced into. Sexual violence includes (but is not limited to) child sexual assault, rape and other forced sexual activity, sexual harassment, ritual or gang assault, sex trafficking, indecent exposure, and stalking. It affects people of all races, genders, ages, sexual orientations, abilities, and cultures. Perpetrators are most commonly family members, intimate partners, caregivers, friends, or acquaintances.

Sexual violence is widespread. Research on sexual violence is notoriously unreliable due to the fact that the stigma and shame of sexual violence can deter victims/survivors from disclosing to anyone at all, let alone researchers. The Bureau of Justice Statistics estimates that there were 346,830 cases of rape and/or sexual assault in the US in 2012. Accurate assessments are difficult to determine because of low rates of reporting. Only 5-20% of sexual assaults are thought to be reported to police (Lonsway and Archambault, 2012; see illustration). A recent comprehensive study of sexual and intimate partner violence found 1 in 5 women in the US have been raped at some point in their lives. For both women and men, 1 in 20 reported being subjected to sexual violence other than rape within the previous year alone (Black et al., 2011). Some populations experience even greater incidences of sexual violence. For example, women with disabilities are four times more likely to experience sexual assault than women without disabilities (Martin et al., 2006).

Intellectual and Developmental Disabilities

A developmental disability is a severe, chronic disability that:

1. Is attributable to a mental or physical impairment or a combination of those impairments;
2. Occurs before the individual reaches age 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; *and*
5. Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

An intellectual disability is a type of developmental disability; however, not all people with a developmental disability have an intellectual disability. Intellectual disability is defined as a disability that occurs before age 18 where people experience significant limitations in two main areas: (1) intellectual functioning and (2) adaptive behavior (comprised of conceptual skills, social skills, and practical skills). Intellectual disability is generally thought to be present if an individual has an IQ test score of approximately 70 or below.

Our grant will enable us to improve services for people with these disabilities in Hennepin County. While Hennepin is the most populous county in the state, there is no definitive information on the number of county residents with I/DD. The most recently reported number of adults with I/DD receiving case management services from Hennepin County is 4,400, which includes both county operated and

contracted case management (Ervin, 2014), In addition, there are 1,011 people with I/DD who are on the waiting list for case management services who are not currently receiving services (Minnesota DHS, 2014).

The Organizations

The Arc Greater Twin Cities

The Arc provides information, assistance, and advocacy services for people with intellectual and/or developmental disabilities, such as Down syndrome, autism, fetal alcohol spectrum disorder, cerebral palsy, and other conditions.

Since 1946 when parents started meeting in a church basement, The Arc Greater Twin Cities has been committed to creating opportunities and systems change for people with intellectual and developmental disabilities. Its mission is to promote and protect the human rights of people with intellectual and developmental disabilities, actively supporting them and their families in a lifetime of full inclusion and participation in their communities. The Arc provides information, assistance, and advocacy for education, early intervention, transition to adulthood, health care, housing, abuse prevention, employment and more.

One of the core values of The Arc is social justice. The Arc promotes building advocacy skills for adults with I/DD by developing self-advocates' strengths in navigating complex systems, pursuing their rights, and developing strategies to solve problems and overcome barriers.

The Arc supports a dedicated team that works on abuse prevention awareness. The Abuse Prevention Team offers a variety of trainings around abuse prevention for self-advocates, family members, and professionals. The most commonly requested trainings for self-advocates are titled Keeping Safe and Healthy

Relationships and Stop the Abuse trainings for family members and professionals. When members of the Abuse Prevention Team are made aware of a situation that involves sexual violence, they work closely with SVC to determine resources, referral or other action steps needed.

Sexual Violence Center

The Sexual Violence Center has provided support, validation, referrals, and direct services to primary and secondary victims/survivors of sexual violence ages 12 and over since 1985. SVC provides services in Hennepin, Carver, and Scott Counties, offering a 24-hour crisis hotline, crisis support in hospital emergency rooms, in-person counseling, legal advocacy, and support groups. SVC also serves these areas by providing prevention education and creating systems change.

SVC's mission is to eradicate sexual violence and abuse by:

- Challenging the systems and individuals that promote privilege, oppression and domination,
- Educating those that will join us as advocates and catalysts for change, and
- Supporting those who have been victimized, empowering them to not only survive but thrive, finding power and movement in our collective voices.

SVC's services are currently available to victims/survivors of sexual violence with I/DD. However, the agency recognizes the need to build our capacity to better support this unique community. All SVC advocates undergo forty hours of training, including instruction from The Arc's Abuse Prevention Team. The Arc makes case referrals to SVC as needed. Nevertheless, the OVW Disability Grant will improve SVC's services for people with I/DD by improving internal policies,

procedures, and culture at both agencies to actively support victims/survivors with I/DD by ensuring all services are disability-aware and trauma-informed.

The Disabilities Grant Program

Our collaboration is made possible by a 3-year grant funded by the United States Department of Justice, Office on Violence Against Women (OVW). Our collaboration was one of five new collaborations to receive funding through the Disability Grant Program in 2013. We began working together October 1, 2013.

Congress has recognized the need to focus on domestic violence, dating violence, stalking, and sexual assault against individuals with disabilities due to the shocking levels of such violence, gaps in service provision, and the inadequate criminal law response to violence against this population.

The Disability Grant Program (formally titled The Education, Training, and Enhanced Services to End Violence Against and Abuse of Women with Disabilities Grant Program) was created by the Violence Against Women Act of 2000 (VAWA 2000). OVW funds multi-disciplinary teams across the nation to address violence against individuals with disabilities. The goal of the Disability Grant Program is to build capacity, enhance collaboration, and to create accessible, appropriate services for individuals with disabilities who are victims of domestic violence, dating violence, stalking, and sexual assault.

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Work Plan

| Activity | Timeframe | Collaboration Committee Meetings Allotted |
|--|--------------------------|---|
| Hire staff | December 2013-April 2014 | 9 total |
| New grantee orientation | January 2014 | N/A |
| Create collaboration charter | February-September 2014 | 13 total |
| Get to know partner agencies | February-June 2014 | 9 total |
| Establish conflict resolution and decision-making processes, confidentiality guidelines, values, assumptions | April-June 2014 | 6 total |
| Establish mission, vision, public talking points, communications agreement | May-August 2014 | 7 total |
| Vera site visit – collaboration charter | June 3-4, 2014 | N/A |
| Establish roles, create glossary | June-August 2014 | 5 total |
| Finalize charter components | September 2014 | 1 total |

| | | |
|--|-----------------------------|-------------|
| Compose “Narrowing the Focus” memo; reassess and elaborate on work plan | October 2014 | 2 total |
| Needs assessment | November 2014-February 2015 | 10-11 total |
| Create needs assessment plan | November 2014 | 2 total |
| Conduct needs assessment (includes time for OVW approval of needs assessment plan) | December 2014-January 2015 | 4-5 total |
| Compile, analyze data | February 2015 | 2 total |
| Compose needs assessment report | March 2015 | 2 total |
| Strategic Plan | April 2015-September 2016 | TBD |
| Create strategic plan | April-May 2015 | 4 total |
| Vera site visit – strategic plan | April 2015 | N/A |
| Implement strategic plan | June 2015-September 2016 | TBD |

Working Agreements

Our collaboration committee has agreed to the following working agreements that will be observed during our collaborative meetings.

- Engage in respectful communication at all times
- Correct each other's misuse of language; accept and apply others' corrections
- Listen to understand, not to contradict
- Respect others' views
- Conclude meetings with a clear sense of next steps and each person's responsibilities
- Separate people from problems
- Assume best intentions

A copy of our working agreements will be displayed at every meeting. Partners agree to reference the working agreements whenever a member feels as though there is need to review the agreements. Reminders of the working agreements will be viewed as commitment to integrity of the collaboration and not as a correction of another's behavior.

If the collaboration committee experiences challenges to adhering to the working agreements, defined as persistent need to review the agreements, then collaboration members will begin to rate ourselves on each agreement at the end of every collaboration meeting. If the collaboration committee experiences difficulties in adhering to the working agreements and self-reflection at the end of every meeting does not improve the situation, we will ask the Vera Institute of Justice for guidance.

Mandated Reporting and Duty to Warn

Agency Responsibilities

The agencies joined in this collaboration agree that children and adults with intellectual and developmental disabilities deserve to be free from abuse. Each agency has different obligations regarding mandatory reporting of abuse. Neither SVC nor The Arc Greater Twin Cities are mandated reporter agencies with regard to instances of suspected maltreatment of vulnerable adults.

SVC advocates are bound by several obligations under the law, including: 1) mandatory reporting of suspected abuse or neglect of minors (persons under the age of 18), 2) mandatory emergency reporting of suspected imminent physical harm of a minor, 3) mandatory reporting of suicidal intent at any age, and 4) a duty to warn (in instances where someone discloses the specific intent to harm another person to an SVC advocate). The Arc Greater Twin Cities is not a mandated reporter agency by legal definition and is not bound by a legal duty to warn; however, staff may make a report in order to protect adults and minors with I/DD from abuse, neglect, maltreatment, and/or exploitation. The Arc Greater Twin Cities' reporting practices are determined by organizational ethics aligned with The Arc of the United States position statements rather than statute.

Sexual Violence Center

Judicial Privilege

Minnesota Statute § 595.02 (1)(k) defines a sexual assault counselor as “a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render

advice, counseling, or assistance to victims of sexual assault.” This definition encompasses SVC advocates. The section extends judicial privilege to individuals accessing services provided by sexual assault advocates.

It is this provision for judicial privilege that allows SVC advocates to act as confidential service providers and support for victims/survivors of sexual violence. They should not be subject to subpoena or be otherwise obligated to testify in criminal proceedings without victims’/survivors’ express consent.

According to guidance provided by the Sexual Violence Justice Institute at the Minnesota Coalition Against Sexual Assault, sexual assault counselors are bound by Minnesota Statute § 626.556 (3)(a)(1), which specifically designates who are considered mandated reporters in cases of suspected maltreatment of minors. This applies to all advocates providing direct services to clients under the auspices of the Sexual Violence Center, whether as staff, as interns, or as volunteers.

SVC advocates support the judicial privilege enjoyed by the victims/survivors they work with whenever possible. A failure to do so is considered “breaking confidentiality” within the agency and is only done either with the express consent of the victim/survivor or without consent in certain cases. For circumstances in which the victim/survivor consents to the breaking of confidentiality, this can be done only through written consent freely given by the victim/survivor through a standard release of information form, is always narrowly focused on specific pieces of information to be shared with a designated person or agency, and is always time-bound.

Circumstances in which confidentiality will be broken without the consent of the victim/survivor are tied specifically to the mandatory reporting obligations of advocates as designated by statute.

Mandated Reports

SVC's policies and practices uphold the value of respect for the confidentiality of victims/survivors accessing our services, and SVC advocates make every effort to warn victims/survivors when it seems they may be about to disclose information that would trigger the advocate's duty to make a mandated report. This warning gives the victim/survivor the power to decide whether to proceed with the disclosure, knowing that a report could result. This procedure is in accordance with SVC's ethics policy.

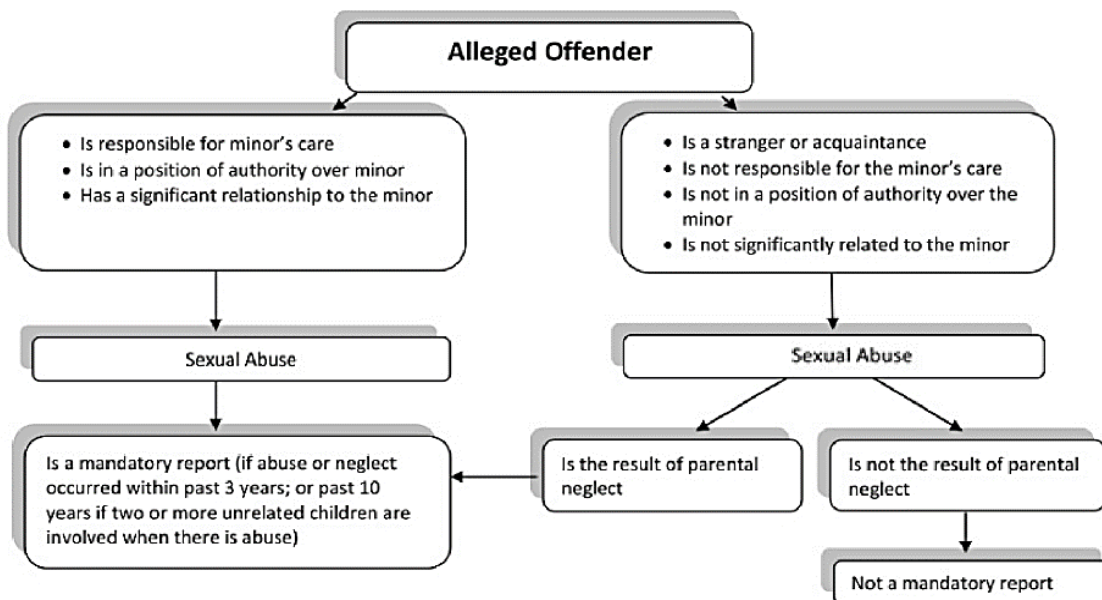


Image (modified) from the booklet Consent and Confidentiality, published by Hennepin County Medical Center

The chart above shows the situations that mandate an advocate to report sexual abuse and/or neglect. Two recent legislative changes expand the scope of the mandated reporting obligation for SVC advocates.

Safe Harbor Mandates

Minnesota's Safe Harbor for Sexually Exploited Youth law (State Statute § 145.4716) designates that minors engaged in sex work are to be classified as

victims of sex trafficking rather than as suspects of crime. The law has also brought about new reporting requirements, and as of August 1, 2014, SVC advocates are now mandated to report cases of suspected sex trafficking of minors, regardless of whether or not the trafficker is a familial relation or in a position of authority over the minor.

[Reporting of Maltreatment of Minors Act](#)

SVC advocates are also mandated reporters in cases where a registered offender (i.e. someone convicted or adjudicated delinquent for certain felonies) resides in the same household as a minor. The offense for which the offender is registered may or may not have anything to do with sexual violence; and an allegation of sexual violence against this offender is not necessary to trigger a mandated report. But, by virtue of having been convicted of one of a range of specified felonies, this law states that such people are threats to minors warranting a mandated report. These crimes include but are not limited to committing, aiding, or abetting murder, kidnapping, criminal sexual conduct, indecent exposure, certain forms of criminal abuse, involvement in the sex trafficking of minors, and possessing child pornography.

[Reports to Child Protection Services](#)

With guidance from the Department of Human Services (DHS) and counseling from Hennepin County Child Protection Services (CPS), SVC has determined that in order for a report to be mandated, advocates would need to have the first and last names of both the victim and the alleged perpetrator, as well as the county in which the abuse took place (because CPS is county-based).

Statute § 626.556 (6) paragraphs (a)-(c) designate the timeframes applicable to mandated CPS reports. A report is necessary if the minor has been physically or sexually abused within the past three years, or—if there is more than one minor victimized by the same perpetrator (who is not related to the child)—within the past ten years. This extends to victims/survivors who are now over age 18 but whose abuse occurred when they were minors.

The chart above shows the situations that mandate an advocate to report sexual abuse and/or neglect. With guidance from the Department of Human Services (DHS) and counseling from Hennepin County Child Protection Services (CPS), SVC has determined that in for a report to be mandated, advocates would need to have the first and last names of both the victim and the alleged perpetrator, as well as the county in which the abuse took place (because CPS is county-based).

Statute § 626.556 (6) paragraphs (a)-(c) designate the timeframes applicable to mandated CPS reports. A report is necessary if the minor has been physically or sexually abused within the past three years, or—if there is more than one minor victimized by the same perpetrator (who is not related to the child)—within the past ten years. This extends to victims/survivors who are now over age 18 but whose abuse occurred when they were minors.

Reports to 911 Emergency Services

In some instances, mandated reports related to minors are made to 911 emergency services rather than to CPS. This is the case when an advocate learns of an imminent threat of harm or danger to a minor. Such a report is also required in the event that an SVC advocate learns that a victim/survivor of any age a) has clear intent to harm another person, or b) has clear suicidal intent and refuses to

contract for safety. In such situations, the SVC advocate is compelled to break the confidentiality of the victim/survivor and report to 911 emergency services.

Duty to Warn

According to DHS, sexual assault advocates have a duty to warn of imminent threat of danger by a victim/survivor against someone else. Along with reporting to 911, SVC advocates are responsible for contacting and warning the person under threat if they have or are in the position to obtain that person's contact information.

The Arc

Minnesota statute § 626.5572 establishes mandated reporting requirements for vulnerable adults by designating particular services where providers are mandated reporters, as well as professional occupations that automatically involve mandated reporter status. The Arc Greater Twin Cities provides advocacy services that are not explicitly designated in statute; therefore, advocates are not statutorily required to report by virtue of the services they provide. Some of The Arc's advocates are mandated reporters due to either their professional occupation, as designated in § 626.5572, or their licensing status, as delineated in § 214.01 (2). Arc staff who have a current license by the Board of Social Work could be considered mandated reporters. As of the writing of this charter, neither the 1.0 FTE project director housed at The Arc nor the representative from The Arc are mandated reporters.

The Arc aligns its advocacy services with the position of The Arc USA to protect all people with I/DD from mistreatment including abuse, neglect, exploitation and maltreatment. The Arc seeks solutions that are in the best interest of the adult

with I/DD, placing the decision to report maltreatment in the hands of the individual who is experiencing maltreatment and can make an informed choice. The Arc supports individuals whether or not they decide to report their maltreatment by providing ongoing support, which may include coaching, providing assistance and information, and making referrals to other community resources.

The Arc will, however, make reports when there is concern related to specific intent to harm another person; suicidal intent; or the imminent health, safety, and wellbeing of a minor. The Arc advocates will warn self-advocates and family members when it appears that they are about to disclose information that would ethically obligate an advocate to make a report.

An advocate working with an adult with I/DD who questions the self-advocate's capacity to make an informed choice regarding their personal safety and wellbeing should discuss the matter with their supervisor. The Arc will voluntarily report in order to assure the safety, imminent health and wellbeing for a vulnerable adult.

Needs Assessment Considerations

Although the needs assessment will not inquire about focus group participants' personal history with sexual violence, there is potential that a disclosure will take place during this phase of the project. Therefore, guidelines and planning are necessary to prepare for the response of such disclosures.

- If a disclosure is made, The Arc and SVC will follow their respective agencies' reporting policies, dependent on who receives the disclosure.

- A discussion will be held during the needs assessment planning phase to establish guidelines to ensure that mandatory reporting and confidentiality requirements are adhered to for both organizations. These guidelines may include:
 - Being mindful of mandated reporting obligations when assigning a project director to facilitate a support group
 - Instructing focus group facilitators to warn participants against making such a disclosure
 - Constructing focus groups of victims/survivors to best serve participants' needs by ensuring that a mandated reporter is never present in the room. We will be mindful that the 0.5 FTE Project Director will be a sexual violence advocate who will need to withdraw from any focus group situation in which mandated reporting could be triggered.
 - Depending on determinations made internally at The Arc, it may become necessary to hire an outside consultant to facilitate focus groups or other components of our needs assessment.

Glossary

Our collaboration recognizes that individuals and organizations may have differing ideas about the language that we commonly use. In order to communicate effectively and in a unified voice, our collaboration has discussed the following terms and definitions to reach consensus on their usage. This glossary reflects our understanding of the included terms for the purposes of our collaboration charter.

Terms

Ableism – The systems in which discrimination and exclusion is used to oppress people with disabilities. Systems in which people without disabilities maintain dominance over people with disabilities through a set of attitudes, assumptions, behaviors, social structures, rewards, privileges, and benefits of society are made available to people based on their presumed level of ability.

Advocate – At SVC this term refers to a sexual assault advocate, whether paid or unpaid, who has undergone 40 hours of training in compliance with Minnesota State Statute § 595.02 (1) (k). At The Arc, it refers to anyone who represents someone else’s best interest and helps that person in moving forward by speaking with and on behalf of that person. An advocate can be a family member, friend, professional, or acquaintance. See also: *self-advocate*.

Advocacy – Advocacy on the individual or systems level is acting with or on behalf of an individual or group to resolve an issue, obtain a needed support or service, or promote a change in the practices, policies, and/or behaviors of third parties.

Agency – See self-determination.

Anti-Oppression – Describes the advocacy and framework that acknowledge the negative influence of oppression on society. Anti-oppression work involves a continual struggle against oppression and requires continual self-scrutiny on the part of activists and advocates. See also: *oppression*.

Caregiver – Any person, paid or unpaid, related or not related, who assists someone with a disability in any area of their life and helps ensure safety and well-being.

Consent – Minnesota Statute § 609.341 (4) defines consent as “words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.” For nonsexual consent, see *informed consent*.

Criminal Sexual Conduct – Minnesota criminal law designates degrees of criminal sexual conduct (CSC) in State Statute § 609.342 through 609.3451. Note that CSC statutes are not the only criminal laws pertaining to sexual violence. See *significant relationship* for a relevant definition.⁹

CSC in the First Degree (§609.342) – Statutory designation for sexual assault involving penetration, sexual contact with someone under 13, or where any of the following circumstances exists:

⁹ These definitions are summaries of the statutes referenced, either created by the PDs or drawn from the fact sheet “Criminal Sexual Conduct Statutes in Minnesota: A General Overview” by MNCASA’s Sexual Violence Justice Institute (see Appendix C for the Minnesota State Statute on Criminal Sexual Conduct).

- The victim is less than 13 years old and the aggressor is more than 3 years older than the victim;
- The victim is between 13 and 16 and the aggressor is more than 4 years older and uses a position of authority to make the victim submit;
- The victim, based on circumstances at the time of the act, has a reasonable fear of imminent great bodily harm to self or others;
- The aggressor is armed with a dangerous weapon or uses an article the victim reasonably believes to be a dangerous weapon and uses or threatens to use it to cause the victim to submit;
- The aggressor causes personal injury to the victim and aggressor either uses force or coercion to accomplish sexual penetration or knows or has reason to know the victim is mentally impaired, incapacitated, or physically helpless;
- The aggressor is aided or abetted by an accomplice and accomplice either uses force or coercion or is armed with a dangerous weapon used to cause the victim to submit;
- The victim is under 16 years old at the time of penetration, the aggressor has a significant relationship with the victim, and either the aggressor/accomplice used force or coercion to accomplish penetration, or the victim suffered personal injury, or the sexual abuse involved multiple acts committed over an extended time period.

CSC in the Second Degree (§ 609.343) – Statutory designation for sexual assault that does not involve penetration but where any of the circumstances delineated in § 609.342 are present.

CSC in the Third Degree (§ 609.344) – Statutory designation for sexual assault where an aggressor engages in sexual penetration with another person and any of the following circumstances exist:

- The victim is less than 13 years old and the aggressor is no more than 3 years older than the victim;
- The victim is between 13 and 16 and the aggressor is no more than 2 years older;
- The aggressor uses force or coercion to accomplish the penetration;
- The aggressor knows or has reason to know the victim is mentally impaired, incapacitated, physically helpless;
- The victim is between 16 and 18 and the aggressor is more than 4 years older and uses a position of authority to make the victim submit;
- The victim is between 16 and 18 and the aggressor has a significant relationship with the victim at the time of the sexual penetration, or the victim suffered personal injury, or the sexual abuse involved multiple acts committed over an extended period of time.
- The aggressor is a psychotherapist, the victim is a patient and the act occurred during a therapy session or during the ongoing therapy relationship; or the victim is a former patient and is emotionally dependent upon the psychotherapist; or the victim is a patient or former patient and the penetration occurred by means of therapeutic deception;
- The aggressor accomplishes penetration by means of deception or false representation that is for a bona fide medical purpose;

- The aggressor is or purports to be a member of the clergy and the victim and aggressor are not married and either the penetration occurred during a meeting where the victim sought or received religious or spiritual advice, aid, or comfort from the aggressor or during a period of meetings as part of an ongoing basis where the victim sought or received religious or spiritual advice, aid, or comfort from the aggressor;
- The aggressor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, secure treatment facility, or facility providing services to clients civilly committed as mentally ill or dangerous, sexually dangerous person, or sexual psychopathic personalities and the victim is a resident of a facility or under supervision of the correctional system.
- The aggressor provides or is an agent of an entity that provides special transportation services and the victim uses the special transportation service and the sexual penetration occurred during or immediately before or after the aggressor transported the victim;
- The aggressor performs massage or other bodywork for hire and the victim was a user of those services and nonconsensual penetration occurred during or immediately before or after the aggressor performed or was hired to perform those services for the victim.

CSC in the Fourth Degree (§ 609.345) – Statutory designation for sexual assault that does not involve penetration but where any of the circumstances delineated in § 609.344 are present.

CSC in the Fifth Degree (§ 609.3451) – Statutory designation for sexual assault in which an aggressor:

- Engages in nonconsensual contact with any victim; or
- Engages in masturbation or lewd exhibition of the genitals in the presence of a minor under age 16, knowing or having reason to know the minor is present.

Crisis Counseling – A short-term service focused on building coping skills and empowering victims/survivors provided as one of SVC’s direct services.

Crisis Line – SVC’s 24-hour crisis counseling telephone hotline provided to primary and secondary victims/survivors of sexual violence as one of SVC’s direct services.

Developmental Disability – According to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, a chronic disability that:

1. Is attributable to a mental or physical impairment or a combination of those impairments;
2. Occurs before the individual reaches age 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and
5. Reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

Duty to Warn – See “Mandated Reporting and Duty to Warn” on page 49.

Guardian – Someone who has been court-appointed to make decisions for an individual who is unable to make and communicate responsible decisions. See *guardianship*.

Guardianship – A legal process administered by the district court that appoints a substitute decision-making alternative for individuals who are unable to make and communicate responsible decisions. An individual may be under limited or full guardianship. Limited guardianship awards a guardian legal power to make decisions in only certain areas of the individual’s life. Full guardianship awards a guardian legal power to make decisions in all areas of the individual’s life. The legal powers of guardianship are:

1. Determining place of abode (where the person lives)
2. Care, comfort, and maintenance (needs for shelter, nutrition, and access to services)
3. Reasonable care for personal effects (clothing and furniture)
4. Medical or other professional care (medical or other care decisions; does not include access to emergency services)
5. Approval or withholding of contracts (financial contracts such as leases or cell phone contracts)
6. Supervisory authority (level of personal freedom; the most comprehensive form of guardianship)
7. Accessing government benefits (Social Security, Medical Assistance)

Informed Choice – A decision contextualized by knowledge from a range of personal experiences, options, and opportunities. The choice is based on relevant,

factual, and experiential information that results in the best personal decision available.

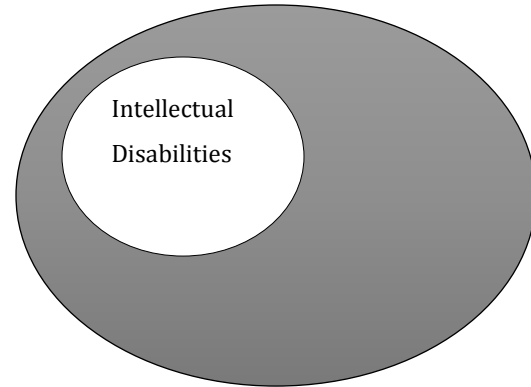
Informed Consent – Permission granted for services and/or information sharing, with full knowledge of the possible risks and benefits. Informed consent means that consent is valid only if the person giving the consent understands:

- The nature of what is being consented to;
- The benefits and/or the risks of harm; and
- What alternatives are available to the protected person if consent is given or if consent is not given.

Informed consent requires that the person giving consent:

- Has the knowledge available to make a reasonable decision;
- Has the capacity or ability to make reasoned decisions based upon information that applies to the situation; and
- Is giving consent voluntarily and without coercion.

Intellectual Disability – A disability that occurs before age 18. People with this disability experience significant limitations in two main areas: 1) intellectual functioning and 2) adaptive behavior (comprised of conceptual skills, social skills,



and practical skills). Intellectual disability is generally thought to be present if an individual has an IQ test score of approximately 70 or below.¹⁰

As the terms are used at The Arc, an intellectual disability is a type of developmental disability; however, not all people with a developmental disability have an intellectual disability.

Judicial Privilege – Protects privacy of victims/survivors by preventing the release of their personal counseling or therapeutic records for criminal proceedings involving sexual offenses.

Legal Advocacy – Information, referrals, and support provided to victims/survivors of sexual violence as they go through the criminal or civil legal system. Legal advocacy is one of SVC’s direct services.

Mandated Reporting – See “Mandated Reporting and Duty to Warn” on page 49.

Medical Advocacy – The provision of support, validation, and information to victims/survivors of sexual assault, most often in hospital emergency rooms when

¹⁰ Definition from The Arc United States’ “Introduction to Intellectual Disabilities” found at <http://www.thearc.org/what-we-do/resources/fact-sheets/introduction-to-intellectual-disabilities>.

a SANE nurse conducts a forensic exam. Medical advocacy is one of SVC's direct services.

Mentally Impaired – Minnesota Statute § 609.341 (6) defines “mentally impaired” as meaning “that a person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give a reasoned consent to sexual contact or to sexual penetration.”

Oppression – Oppression is inherently linked to privilege, power, and control a combination of prejudice and institutional power creates limitation of opportunity and livelihood for one group while benefiting other groups. Oppression can occur on personal, interpersonal, institutional, and/or cultural levels, can be conscious or unconscious, subtle and overt, and reflects biases along axes of race, class, ability, gender, and other social classifications.

Self-Advocate – As used by staff of The Arc, ‘self-advocate’ refers to any youth or adult with I/DD. People with I/DD must be able to act as self-advocates; that is, to exercise their rights of basic personhood and citizenship by speaking and standing up for themselves. We use this term in our charter as well, but we note that not all people with I/DD self-identify as self-advocates or are necessarily familiar with the term.

Self-Determination – The authority to assert control in one's own life; the right to and capacity for choice and action in one's own life. Used interchangeably with *agency*.

Sex Trafficking – When a person is received, recruited, enticed, or harbored for the purpose of a commercial sex act induced by force, fraud, or coercion.

Prostitution – A contract predicated on ownership and unconditional sexual access to a person’s body.¹¹

Sexual Violence – SVC defines sexual violence as:

- Any time *sexual behavior or contact* is used as a weapon to gain *power and control* over someone else.
- Any sexual behavior or contact which one is *tricked, forced, or coerced* into.

The spectrum of sexual violence includes:

Sexual Assault – Unwanted, coerced and/or forced sexual penetration and/or touch. Penetration may be of the victim/survivor by the aggressor or forced penetration by the victim/survivor of the aggressor; penetration can be with either a body part or other object. Similarly, sexual assault can be sexual contact with or touch of the victim/survivor by the aggressor or forced contact with or touch by the victim/survivor with of the aggressor. Sexual assault includes drug-facilitated sexual assault, intimate partner sexual assault, and sexual assault by multiple aggressors.

Rape – Sexual assault that involves oral, vaginal, and/or anal penetration.

Child Sexual Abuse – The sexual exploitation or victimization of a minor, whether by an adult, adolescent, or other minor. Child sexual abuse can be:

Incest – Sexual abuse committed by one family member against another.

¹¹ Note that the term *sex work* is generally used either to encompass both consensual and non-consensual sex trade, to conflate consensual and non-consensual sex trade, or to distinguish consensual sex trade from trafficking. The issue of consensual sex work is highly controversial.

Molestation – Non-familial sexual abuse.

Domestic Violence – A pattern of coercive and controlling behaviors and tactics, which may include sexual violence, used by one person in a family or household to gain power and control over another.

Indecent Exposure – The display of sexual body parts to another person, usually a stranger, when it is unwanted and not asked for.

Intimate Partner Sexual Violence – Sexual violence occurring between two people who have or have had a consensual sexual relationship.

Sexual Harassment – Minnesota Statute § 363A.03 (43) defines sexual harassment as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of a person’s employment or access to services/education;
- Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; and/or
- Conduct has the purpose or effect of interfering with an individual’s performance or creating an intimidating, hostile, or offensive work or learning environment.”

Incidents of sexual harassment are sometimes characterized as bullying in schools; when these incidents are not considered in terms of sexual harassment, victims/survivors may not be connected to the resources they would be otherwise. The criminal legal system only recognizes sexual harassment in the workplace and educational contexts.

Street Harassment – Sexual other harassment in public spaces. Verbal or physical sexual advances, requests for sexual favors, and other verbal or physical conduct with the purpose or effect of interfering with an individual’s sense of safety or creating an intimidating, hostile, or offensive environment.

Sex Trafficking – See *sex trafficking* definition above.

Stalking – Unwanted and/or obsessive attention by a person or persons toward another individual.

For statutory definitions of terms related to sexual violence as used in criminal law, see Minnesota State Statutes § 609.321 and 609.341.

Significant Relationship – Minnesota Statute § 609.341 (15) defines a ‘significant relationship’ as “a situation in which the [actor] is:

1. The victim’s parent, stepparent, or guardian;
2. Any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or
3. An adult who jointly resides intermittently or regularly in the same dwelling as the complainant who is not the complainant’s spouse.”

Staff – ‘Staff’ is a broad term describing paid employees and, at The Arc, interns as well.

Support Group – At SVC, ‘support groups’ are comprised of two or more victims/survivors and are led by at least one facilitator that focus on healing, coping skills, and fostering self-care. SVC facilitates support groups as one of its direct services.

Systems Change – The process of modifying and enhancing existing inter-organizational cultures, policies, and procedures to create a more responsive and effective service delivery system for victims/survivors of sexual violence with I/DD.

Trauma-Informed Approach – In this approach, representatives of an agency make a collective commitment to understand the prevalence and impact of trauma and the complex and varied paths in which people recover and heal from it. A trauma-informed approach is designed to avoid re-traumatizing those who seek assistance and is based on a commitment to “do no harm.”¹²

Victim/Survivor – A person who has been subjected to or secondarily affected by sexual violence. This is a symbolic term meant to avoid labeling people with a status they do not claim and leaving the decision of how to identify up to each individual.

Primary Victim/Survivor – An individual who has been subjected to sexual violence. Any person can be a primary victim/survivor.

Secondary Victim/Survivor – An individual who has been affected by another’s experience of sexual violence. Secondary victims/survivors can include intimate partners, friends, and family of the primary victim/survivor.

Victim Hierarchies – The result of conscious and/or unconscious ranking of a victim’s/survivor’s credibility, responsibility for what occurred, legitimacy as a victim in criminal legal processes, and deservingness of support. Victim hierarchies can be established and reinforced by media, law enforcement, courts,

¹² Definition adapted from Harris, M. & Falot, R. (2001). Using trauma theory to design service systems.

family and friends, medical professionals, and even sexual assault services. Victims/survivors can fall lower in the hierarchy when they have a disability or are otherwise marginalized. They are less likely to be believed and more likely to be blamed or even punished and re-victimized.

Vulnerable Adult – The Minnesota Statute (§ 626.5572) definition of a vulnerable adult includes residents or inpatients of a licensed facility; persons receiving services from an authorized home care provider; and persons who have “a physical or mental infirmity or other physical, mental, or emotional dysfunction” that impedes self-care and impairs their ability to protect themselves from maltreatment.

Abbreviations

APS – Adult Protection Services

CPS – Child Protection Services

CSC – Criminal sexual conduct

I/DD – Intellectual and/or developmental disability

MNCASA – Minnesota Coalition Against Sexual Assault

SANE – Sexual Assault Nurse Examiner

SARS – Sexual Assault Resource Services, the agency that coordinates SANE services in Hennepin County

SMARTeam – Sexual Assault Multidisciplinary Action Response Team

SVC – Sexual Violence Center

The Arc – The Arc Greater Twin Cities

Appendix A: Position Statements from The Arc

These are the position statements of The Arc United States, rather than any other formation, including of The Arc Greater Twin Cities.

Criminal Justice

Available at <http://www.thearc.org/page.aspx?pid=2350>.

Guardianship

Available at <http://www.thearc.org/page.aspx?pid=2351>.

Human & Civil Rights

Available at <http://www.thearc.org/page.aspx?pid=2352>.

Protection

Available at <http://www.thearc.org/page.aspx?pid=2357>.

Quality of Life

Available at <http://www.thearc.org/page.aspx?pid=2347>.

Self-Advocacy

Available at <http://www.thearc.org/page.aspx?pid=2358>.

Self Determination

Available at <http://www.thearc.org/page.aspx?pid=2359>.

Sexuality

Available at <http://www.thearc.org/page.aspx?pid=2376>.

Appendices B: Mandated Reporting for Minors

The Sexual Violence Justice Institute, a part of the Minnesota Coalition Against Sexual Assault, provides guidance for sexual violence advocacy programs and advocates. It provides fact sheets. The following is slightly altered for formatting purposes.

Mandated Reporting of Sexual and Physical Abuse or Neglect of a Child

In Minnesota, sexual assault advocates are mandated to report the abuse or neglect of a child by “certain persons” in caregiving roles to the child. Failure to do so when required is a crime. See Minn. Stat. §626.556. For a helpful training resource see “An Interactive Informational Guide on Mandated Reporting” from the Minnesota Department of Human Services available at www.dhs.state.mn.us (look under “child protection”).¹³

Who is a Mandated Reporter

- A professional or professional’s delegate who is engaged in (among other things) the practice of the healing arts, social services, or psychological treatment. **Sexual assault advocates should fall into one of these categories, making them mandated reporters.**

What Must Be Reported

- Physical or sexual abuse or neglect of a child by **certain persons** when that abuse/neglect has occurred within the past 3 years, or 10 years for multiple victims

¹³ See also “Mandated Reporting and Duty to Warn.”

1. Sexual Abuse

Sexual abuse is: when **certain persons** subject a child to an act of sexual contact or penetration or threaten the same (also violation of prostitution laws involving a minor and use of a minor in a sexual performance):

Those **certain persons** are (not necessarily adults):

- A “person responsible for the child’s care” - a person functioning within the family unit with responsibilities similar to a parent or guardian, OR a person outside the family unit with duties of the child’s care such as school employees and other short-term caregivers such as babysitters, counselors, or coaches
- A “significant relationship” - an immediate or extended family member, or an adult residing in the same home
- A “position of authority” - a person acting in the place of a parent, or having the responsibility for the health, welfare, or supervision of a child, even if briefly

The behavior mandating a report is:

- Sexual contact – touching or having someone else touch a child’s intimate parts (genital, groin, inner thigh, buttocks or breast) with sexual or aggressive intent
- Sexual penetration – sexual intercourse, cunnilingus, fellatio, or anal intercourse, or any intrusion however slight into the genital or anal openings of the child by any body part or object of the actor, or having the child commit these acts upon the actor

Note also that a mandated report is required when there is threatened sexual abuse which includes the status of a parent or household member who has

committed a violation which requires registration as an offender under Minn. Stat. §243.166 subd. 1b, paragraph (a) or (b), or required registration under the same statute sections. Crimes under this section include criminal sexual conduct but also a broader list of related crimes such as indecent exposure, solicitation of a minor for prostitution, sexual performance and possessing child pornography, as well as other crimes such as murder and kidnapping. Be sure to review the statute for a complete list.

2. Physical Abuse

Physical abuse is: mental or threatened injury inflicted by a “person responsible for the child’s care” other than by accident. Physical or mental injury that cannot be reasonably explained by the child’s history of injuries is also included as reportable physical abuse.

- Physical abuse is not reasonable and moderate physical discipline of a child administered by a parent or legal guardian not resulting in injury, nor the use of reasonable force by a school employee as permitted by law.

3. Neglect

Neglect is:

- Failure by a “person responsible for the child’s care” to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child’s physical or mental health
- Failure to protect a child from conditions or actions that seriously endanger the child’s physical or mental health

- Failure to provide necessary supervision or child care arrangements considering factors involving the child’s ability to care for herself and failure to ensure the child’s education.

Where Do I Report?

- Local welfare agency, police, sheriff, or agency responsible for investigating the report.

When and How Must I Report?

- **Immediately** report by telephone suspicions of abuse or neglect upon knowing or having reason to believe that it has happened within the preceding **3** years
- **Immediately** report by telephone suspicions of abuse or neglect upon knowing or having reason to believe that the same perpetrator has abused two or more children not related to the perpetrator within the preceding **10** years
- Follow the telephone call by a written report within 72 hours
- Mandated reporter must make the report herself. Referring the issue to a supervisor is not sufficient
- When in doubt about whether the incident was already reported, report it. There is nothing prohibiting multiple reports of the same incident.

Why Must I Report?

- Failure to report when mandated is a misdemeanor if it is the **3** year scenario above; it is a gross misdemeanor if it is the **10** year scenario.

Sample Scenarios:

- A 15 year old client tells you she is having sexual intercourse with her 20 year old boyfriend. When you tell her this is illegal, she refuses to report to the authorities.

As it relates to the boyfriend, this is not a mandated reporting situation because he does not fit into the “certain persons” categories described above. You will be violating your duty of confidentiality to the girl if you report the boyfriend against her wishes, and an advocacy agency would not serve the community as well if it earned a reputation for betraying confidences.

- Mandated reporting obligations may not extend beyond workplace obligations.

You have a neighbor child who is 8 years old and has come to like and trust you, although neither he nor his mother knows that you are an advocate. He reports to you that his mother’s live-in boyfriend “sometimes makes me touch his pee-pee.”

The statute is unclear as to whether a mandated reporter has an obligation to report child abuse only while performing her job duties as an advocate. Most likely this scenario is not a mandated report because the information is received when the advocate is not engaged in her work duties. A voluntary report, however, is an option since there is no confidential relationship between you and the child or the parent. You are not required to do so, but if you do make a report you should use your judgment about whether to tell the parent about the report.

- Remember that it is not your role to decide whether the suspected abuse or neglect is valid or “true” before reporting it. You must report when you “know or have reason to believe” that a child was abused or neglected.

You are contacted by a woman who wants information about counseling for her 17 year old niece, as the niece told her mother (the caller's sister) that a coach at school touched her sexually. The mother does not believe her daughter has refused to report to the authorities, but the aunt has called you for information to get the girl into counseling. She gives you the name and address of the 17 year old.

This is a mandated reporting situation, even though the information comes to you third-hand and is sketchy. You need not be sure that the abuse happened, but only “have reason to believe.” A child who says she was abused or neglected is “reason to believe,” and it is up to law enforcement or social services to investigate whether the complaint is “true.”

What Can I Do?

- Remember that mandated reporting always involves the relationship between the child and the abuser or neglecter: reporting is only mandated when the abuser has some sort of a caregiver role to the child as specified above.
- Remember that parental or guardian neglect might include allowing the child to remain at risk of physical or sexual abuse by another.
- Remember that you have a duty of confidentiality towards your clients (see related SVJI fact sheets). You may not disclose information obtained from and about your clients against their wishes, and may not report sexual assault against their wishes unless it is a mandated reporting situation.
- Inform clients upfront about your obligations as a mandated reporter and decide how you will discuss a report with a client if you are required to make one.

- Remember that it is not the duty of the advocate to investigate or collect factual information about any given situation, but rather only to report when the situation presents itself.
- Each advocacy agency should have a system or policy available to advocates in the event that a report becomes necessary, and it is advisable that supervisory staff for the advocate be made aware when she makes a report.
- When questions about mandated reporting arise, advocates should contact the local child protection office for advice, keeping identities private.

*For additional information on mandated reporting see the Minnesota Department of Human Services Website (www.dhs.state.mn.us) and look under “child protection.”

Mandated Reporting of Maltreatment of Vulnerable Adults: What Is Required?

In Minnesota, sexual assault advocates and domestic abuse advocates are NOT mandated reporters of maltreatment of vulnerable adults. See Minn. Stat §626.557 and other statutes and explanations below. For additional information see the Department of Human Services website for an online training course (www.dhs.state.mn.us) under “adult protection.”¹⁴

Who is a Mandated Reporter of Abuse Against Vulnerable Adults

See Minn. Stat. §626.5572 Subd. 16.

A professional or professional’s delegate engaged in:

- Social services;

¹⁴ See also “Mandated Reporting and Duty to Warn.”

- Law enforcement;
- Education;
- The care of vulnerable adults;
- Any occupation regulated under a health related licensing board;
- An employee of a rehabilitation facility certified by the commissioner of jobs and training for vocational rehabilitation;
- An employee of or person providing services in a licensed facility such as a nursing home, residential or nonresidential facility, hospice, personal care attendant, or home care provider;
- A person performing duties of the medical examiner or coroner

*The statute is silent as to whether sexual assault advocates are mandated reporters of abuse against vulnerable adults. **Since advocates are not engaged in the activities named in any of the statutory categories they are not considered mandated reporters.** It is important that programs take care to ensure that job descriptions are clear that a person's role is as an advocate, particularly when a sexual assault program has licensed professionals such as social workers on staff who are mandated reporters and who provide services to sexual assault victim/survivors.

Breaking Confidentiality

Remember that you have a duty of confidentiality to your clients and this duty is governed by funding obligations, advocate privilege and other state law. If you are a sexual assault advocate working with a client who is a vulnerable adult under Minnesota law you may not disclose information obtained from or about your

client. Although anyone can make a voluntary report (even if not a statutorily required mandated reporter) a sexual assault advocate should not disclose any information without a client's informed consent. See the SVJI fact sheets on advocate confidentiality for more information.

Who is a Vulnerable Adult

See Minn. Stat. §626.5572 Subd. 21.

A vulnerable adult is a person 18 years or older who

- Is a resident or inpatient of a facility (such as a hospital, nursing home, adult services, home care provider, hospice, etc) OR
- Receives services from an adult services facility (see exceptions below) OR
- Receives services from a licensed home care provider or personal care assistant OR
- Regardless of receiving services, possesses a physical, mental, or emotional infirmity or dysfunction that impairs the person's ability to provide adequately for his/her own care without assistance AND has an impaired ability to protect him/herself from maltreatment.

*The term "vulnerable adult" is not found in the criminal sexual conduct statute, which punishes sexual contact or penetration with a person who is "mentally impaired."

* Exceptions: A person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is served in the Minnesota sex offender program on a court-hold order for commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person, regardless of residence or

whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the person's ability to provide adequately for his/her own care without assistance AND impairs the person's ability protect him/herself from maltreatment. See Minn. Stat. §626.5572, Subd. 21(a)(2).

What Must Be Reported

Maltreatment of a vulnerable adult: abuse, neglect, or financial exploitation

Abuse

Abuse includes but is not limited to:

- Assault as defined by Minnesota statute
- The use of drugs to injure or facilitate crime
- Solicitation, inducement, or promotion of prostitution
- Criminal sexual conduct (first through fifth degree)
- Action that meets the elements of the above crimes, regardless of whether there are criminal proceedings
- Hitting, slapping, kicking, pinching, biting, corporal punishment
- Use of repeated or malicious oral, written, or gestured language that would be considered by a reasonable person to be disparaging, humiliating, harassing or threatening
- Use of any unauthorized aversive or deprivation procedures, unreasonable confinement, or involuntary seclusion against will of the vulnerable adult or the legal representative of the vulnerable adult

- Sexual contact or penetration between facility staff or person providing services in a facility and a client/resident/patient
- Forcing, coercing, enticing or compelling to perform services against the vulnerable adult's will for another's advantage

Conduct which is not abuse:

- Consensual sexual contact between a vulnerable adult, "who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence"
AND
- A person, including a facility staff person, when a consensual personal relationship existed prior to care giving, OR
- A personal care attendant, regardless of when consensual personal relationship began

Neglect

Neglect includes but is not limited to:

- Failure or omission of a caregiver to provide services or care which is not the result of an accident or therapeutic conduct;
- Absence or likely absence of care or services which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety or comfort.

Conduct which is not neglect:

- See conduct which is not abuse above;

- The vulnerable adult or a person with authority to make health care decisions refusing consent to any therapeutic conduct, or treating by spiritual means, provided it is consistent with prior practice/belief of the vulnerable adult;
- An individual makes an error in the provision of therapeutic conduct that does not result in injury or harm, or results in injury or harm and the necessary care is provided in a timely fashion, so long as the vulnerable adult's health status may be restored, the error is not part of a pattern, it is reported, remedied, and documented

Financial Exploitation

A facility or caregiver is not required to provide or supervise financial management for a vulnerable adult unless otherwise required by law. Financial exploitation includes but is not limited to:

- A breach of a fiduciary obligation recognized in law;
- Unauthorized expenditure of funds;
- Failure to use the vulnerable adult's financial resources to provide necessities where failure is likely to result in detriment;
- In the absence of legal authority:
 - Using, withholding, or disposing of funds or property;
 - Obtaining services to the vulnerable adult's detriment and the benefit of another;
 - Acquiring possession, control, or interest in funds or property through undue influence, harassment, fraud, deception, or duress;

- Forces, compels, coerces, or entices a vulnerable adult to provide services for the profit or advantage of another.

What to Report

See Minn. Stat. §626.557, subd. 4.

To the extent possible reports should include the following information:

- Content sufficient to identify the vulnerable adult and caregiver;
- Nature and extent of suspected maltreatment;
- Any evidence of previous maltreatment;
- Your name and address (it will remain confidential);
- Time, date, and location of the incident;
- Other information you believe may be helpful in an investigation such as current injuries or name of alleged perpetrator.

Where Do I Report

See Minn. Stat. §626.557, subd. 9.

- Each county has a designated local common entry point responsible for receiving reports and available 24 hours a day.
- Upon receiving a report, the common entry point makes an assessment and involves appropriate agencies such as Law Enforcement, Adult Protection, the Minnesota Department of Health, and the Department of Human Services.
- After the appropriate agencies are involved, an investigation is completed and a finding issued.

- Check with Department of Human Services for guidelines specific to certain facilities.

When and How Must I Report

See Minn. Stat. §626.557, subd. 4.

- Upon knowing or having reason to believe that abuse, neglect, or financial exploitation has occurred, **immediately** make an oral report to the common entry point. The common entry point may also require a written report. This means as soon as possible, but no longer than 24 hours from receiving initial knowledge that the incident occurred.
- The mandated reporter must make the report herself. Referring the issue to a supervisor is not sufficient.
- When in doubt about whether the incident was already reported, report it. Nothing prohibits multiple reports of the same incident.

Why Must I Report?

See Minn. Stat. §626.557, subd. 5.

A mandatory reporter who fails to report is civilly liable for damages caused by the failure. A good faith report will be immune from civil or criminal liability.

What Can I Do?

- When questions about mandatory reporting arise, contact your common entry point for advice, keeping identities confidential.
- It is not your duty to investigate or collect factual information about a particular situation. It is your duty to report when mandated.

- Every agency should have a system or policy in place for mandatory reporting situations. It is advisable that supervisory staff be made aware when a staff member makes a report.

Updated February 2011

Appendix C: Minnesota State Statutes

These appendices are verbatim from the Minnesota Office of the Revisor of Statutes website, available at www.revisor.mn.gov/statutes/. Some material may be left out to conserve space. These omissions will be denoted with ellipses (. . .).

609.341: Definitions

Subdivision 1. Scope.

For the purposes of sections 609.341 to 609.351, the terms in this section have the meanings given them.

Subd. 2. Actor.

“Actor” means a person accused of criminal sexual conduct.

Subd. 3. Force.

“Force” means the infliction, attempted infliction, or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat and (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit.

Subd. 4. Consent.

(a) “Consent” means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the

actor and the complainant or that the complainant failed to resist a particular sexual act.

(b) A person who is mentally incapacitated or physically helpless as defined by this section cannot consent to a sexual act.

(c) Corroboration of the victim’s testimony is not required to show lack of consent.

Subd. 5. Intimate parts.

“Intimate parts” includes the primary genital area, groin, inner thigh, buttocks, or breast of a human being.

Subd. 6. Mentally impaired.

“Mentally impaired” means that a person, as a result of inadequately developed or impaired intelligence or a substantial psychiatric disorder of thought or mood, lacks the judgment to give a reasoned consent to sexual contact or to sexual penetration.

Subd. 7. Mentally incapacitated.

“Mentally incapacitated” means that a person under the influence of alcohol, a narcotic, anesthetic, or any other substance, administered to that person without the person’s agreement, lacks the judgment to give a reasoned consent to sexual contact or sexual penetration.

Subd. 8. Personal injury.

“Personal injury” means bodily harm as defined in section 609.02, subdivision 7, or severe mental anguish or pregnancy.

Subd. 9. Physically helpless.

“Physically helpless” means that a person is (a) asleep or not conscious, (b) unable to withhold consent or to withdraw consent because of a physical condition, or (c) unable to communicate nonconsent and the condition is known or reasonably should have been known to the actor.

Subd. 10. Position of authority.

“Position of authority” includes but is not limited to any person who is a parent or acting in the place of a parent and charged with any of a parent’s rights, duties or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, at the time of the act. For the purposes of subdivision 11, “position of authority” includes a psychotherapist.

Subd. 11. Sexual contact.

(a) “Sexual contact,” for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to (o), includes any of the following acts committed without the complainant’s consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

- (i) the intentional touching by the actor of the complainant’s intimate parts, or
- (ii) the touching by the complainant of the actor’s, the complainant’s, or another’s intimate parts effected by a person in a position of authority, or by

coercion, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or by a person in a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts, or

(v) the intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts;

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts; or

(v) the intentional touching with seminal fluid or sperm by the actor of the complainant's body or the clothing covering the complainant's body.

(c) "Sexual contact with a person under 13" means the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

Subd. 12. Sexual penetration.

“Sexual penetration” means any of the following acts committed without the complainant’s consent, except in those cases where consent is not a defense, whether or not emission of semen occurs:

(1) sexual intercourse, cunnilingus, fellatio, or anal intercourse; or

(2) any intrusion however slight into the genital or anal openings:

(i) of the complainant’s body by any part of the actor’s body or any object used by the actor for this purpose;

(ii) of the complainant’s body by any part of the body of the complainant, by any part of the body of another person, or by any object used by the complainant or another person for this purpose, when effected by a person in a position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired; or

(iii) of the body of the actor or another person by any part of the body of the complainant or by any object used by the complainant for this purpose, when effected by a person in a position of authority, or by coercion, or by inducement if the child is under 13 years of age or mentally impaired.

Subd. 13. Complainant.

“Complainant” means a person alleged to have been subjected to criminal sexual conduct, but need not be the person who signs the complaint.

Subd. 14. Coercion.

“Coercion” means the use by the actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon the

complainant or another, or the use by the actor of confinement, or superior size or strength, against the complainant that causes the complainant to submit to sexual penetration or contact against the complainant’s will. Proof of coercion does not require proof of a specific act or threat.

Subd. 15. Significant relationship.

“Significant relationship” means a situation in which the actor is:

- (1) the complainant’s parent, stepparent, or guardian;
- (2) any of the following persons related to the complainant by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or
- (3) an adult who jointly resides intermittently or regularly in the same dwelling as the complainant and who is not the complainant’s spouse.

Subd. 16. Patient.

“Patient” means a person who seeks or obtains psychotherapeutic services.

Subd. 17. Psychotherapist.

“Psychotherapist” means a person who is or purports to be a physician, psychologist, nurse, chemical dependency counselor, social worker, marriage and family therapist, licensed professional counselor, or other mental health service provider; or any other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

Subd. 18. Psychotherapy.

“Psychotherapy” means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

Subd. 19. Emotionally dependent.

“Emotionally dependent” means that the nature of the former patient’s emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the former patient is unable to withhold consent to sexual contact or sexual penetration by the psychotherapist.

Subd. 20. Therapeutic deception.

“Therapeutic deception” means a representation by a psychotherapist that sexual contact or sexual penetration by the psychotherapist is consistent with or part of the patient’s treatment.

Subd. 21. Special transportation.

“Special transportation service” means motor vehicle transportation provided on a regular basis by a public or private entity or person that is intended exclusively or primarily to serve individuals who are vulnerable adults or disabled. Special transportation service includes, but is not limited to, service provided by buses, vans, taxis, and volunteers driving private automobiles.

Subd. 22. Predatory crime.

“Predatory crime” means a felony violation of section 609.185 (first-degree murder), 609.19 (second-degree murder), 609.195 (third-degree murder), 609.20 (first-degree manslaughter), 609.205 (second-degree manslaughter), 609.221 (first-degree assault), 609.222 (second-degree

assault), 609.223(third-degree assault), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255(false imprisonment), 609.498 (tampering with a witness), 609.561 (first-degree arson), or 609.582, subdivision 1 (first-degree burglary).

(. . .)

609.342: Criminal Sexual Conduct in the First Degree

Subdivision 1. Crime defined.

A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age as defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(b) the complainant is at least 13 years of age but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous

weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish sexual penetration; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant reasonably to believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

(. . .)

609.343: Criminal Sexual Conduct in the Second Degree

Subdivision 1. Crime defined.

A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the second degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(c) circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm to the complainant or another;

(d) the actor is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the dangerous weapon to cause the complainant to submit;

(e) the actor causes personal injury to the complainant, and either of the following circumstances exist:

(i) the actor uses force or coercion to accomplish the sexual contact; or

(ii) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(f) the actor is aided or abetted by one or more accomplices within the meaning of section 609.05, and either of the following circumstances exists:

(i) an accomplice uses force or coercion to cause the complainant to submit; or

(ii) an accomplice is armed with a dangerous weapon or any article used or fashioned in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and uses or threatens to use the weapon or article to cause the complainant to submit;

(g) the actor has a significant relationship to the complainant and the complainant was under 16 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense; or

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense.

(. . .)

609.344: Criminal Sexual Conduct in the Third Degree

Subdivision 1. Crime defined.

A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority

over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, or secure treatment facility, or treatment facility providing services to clients civilly committed as mentally ill and dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or

under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual penetration occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

(. . .)

609.345: Criminal Sexual Conduct in the Fourth Degree

Subdivision 1. Crime defined.

A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant. Consent by the complainant to the act is not a defense. In any such case, if the actor is no more than 120 months older than the

complainant, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor reasonably believes the complainant to be 16 years of age or older. In all other cases, mistake as to the complainant's age shall not be a defense;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(1) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense;

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, or secure treatment facility, or treatment facility providing services to clients civilly committed as mentally ill and dangerous, sexually dangerous persons, or sexual psychopathic personalities, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense;

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense; or

(o) the actor performs massage or other bodywork for hire, the complainant was a user of one of those services, and nonconsensual sexual contact occurred during or immediately before or after the actor performed or was hired to perform one of those services for the complainant.

(. . .)

609.3451: Criminal Sexual Conduct in the Fifth Degree

Subdivision 1. Crime defined.

A person is guilty of criminal sexual conduct in the fifth degree:

(1) if the person engages in nonconsensual sexual contact; or

(2) the person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

For purposes of this section, “sexual contact” has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant’s intimate parts or undergarments, and the nonconsensual touching by the complainant of the actor’s intimate parts, effected by the actor, if the action is performed with sexual or aggressive intent.

(. . .)

626.557: Mandated Reporting of Maltreatment of Vulnerable Adults

Subdivision 1. Public policy.

The legislature declares that the public policy of this state is to protect adults who, because of physical or mental disability or dependency on institutional services, are particularly vulnerable to maltreatment; to assist in providing safe environments for vulnerable adults; and to provide safe institutional or residential services, community-based services, or living environments for vulnerable adults who have been maltreated.

In addition, it is the policy of this state to require the reporting of suspected maltreatment of vulnerable adults, to provide for the voluntary reporting of maltreatment of vulnerable adults, to require the investigation of the reports, and to provide protective and counseling services in appropriate cases.

(. . .)

Subd. 3. Timing of report.

(a) A mandated reporter who has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained shall immediately report the information to the common entry point. If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless:

(1) the individual was admitted to the facility from another facility and the reporter has reason to believe the vulnerable adult was maltreated in the previous facility; or

(2) the reporter knows or has reason to believe that the individual is a vulnerable adult as defined in section 626.5572, subdivision 21, paragraph (a), clause (4).

(b) A person not required to report under the provisions of this section may voluntarily report as described above.

(c) Nothing in this section requires a report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point.

(d) Nothing in this section shall preclude a reporter from also reporting to a law enforcement agency.

(e) A mandated reporter who knows or has reason to believe that an error under section 626.5572, subdivision 17, paragraph (c), clause (5), occurred must make a report under this subdivision. If the reporter or a facility, at any time

believes that an investigation by a lead investigative agency will determine or should determine that the reported error was not neglect according to the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5), the reporter or facility may provide to the common entry point or directly to the lead investigative agency information explaining how the event meets the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5). The lead investigative agency shall consider this information when making an initial disposition of the report under subdivision 9c.

Subd. 3a. Report not required.

The following events are not required to be reported under this section:

(1) A circumstance where federal law specifically prohibits a person from disclosing patient identifying information in connection with a report of suspected maltreatment, unless the vulnerable adult, or the vulnerable adult's guardian, conservator, or legal representative, has consented to disclosure in a manner which conforms to federal requirements. Facilities whose patients or residents are covered by such a federal law shall seek consent to the disclosure of suspected maltreatment from each patient or resident, or a guardian, conservator, or legal representative, upon the patient's or resident's admission to the facility. Persons who are prohibited by federal law from reporting an incident of suspected maltreatment shall immediately seek consent to make a report.

(2) Verbal or physical aggression occurring between patients, residents, or clients of a facility, or self-abusive behavior by these persons does not constitute abuse unless the behavior causes serious harm. The operator of the facility or a

designee shall record incidents of aggression and self-abusive behavior to facilitate review by licensing agencies and county and local welfare agencies.

(3) Accidents as defined in section 626.5572, subdivision 3.

(4) Events occurring in a facility that result from an individual's error in the provision of therapeutic conduct to a vulnerable adult, as provided in section 626.5572, subdivision 17, paragraph (c), clause (4).

(5) Nothing in this section shall be construed to require a report of financial exploitation, as defined in section 626.5572, subdivision 9, solely on the basis of the transfer of money or property by gift or as compensation for services rendered.

Subd. 4. Reporting.

(a) Except as provided in paragraph (b), a mandated reporter shall immediately make an oral report to the common entry point. The common entry point may accept electronic reports submitted through a Web-based reporting system established by the commissioner. Use of a telecommunications device for the deaf or other similar device shall be considered an oral report. The common entry point may not require written reports. To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected maltreatment. A mandated reporter may disclose not public data, as defined in section 13.02, and medical records under

sections 144.291 to 144.298, to the extent necessary to comply with this subdivision.

(b) A boarding care home that is licensed under sections 144.50 to 144.58 and certified under Title 19 of the Social Security Act, a nursing home that is licensed under section 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a hospital that is licensed under sections 144.50 to 144.58 and has swing beds certified under Code of Federal Regulations, title 42, section 482.66, may submit a report electronically to the common entry point instead of submitting an oral report. The report may be a duplicate of the initial report the facility submits electronically to the commissioner of health to comply with the reporting requirements under Code of Federal Regulations, title 42, section 483.13. The commissioner of health may modify these reporting requirements to include items required under paragraph (a) that are not currently included in the electronic reporting form.

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Subd. 4a. Internal reporting of maltreatment.

(a) Each facility shall establish and enforce an ongoing written procedure in compliance with applicable licensing rules to ensure that all cases of suspected maltreatment are reported. If a facility has an internal reporting procedure, a mandated reporter may meet the reporting requirements of this section by reporting internally. However, the facility remains responsible for complying with the immediate reporting requirements of this section.

(b) A facility with an internal reporting procedure that receives an internal report by a mandated reporter shall give the mandated reporter a written notice

stating whether the facility has reported the incident to the common entry point. The written notice must be provided within two working days and in a manner that protects the confidentiality of the reporter.

(c) The written response to the mandated reporter shall note that if the mandated reporter is not satisfied with the action taken by the facility on whether to report the incident to the common entry point, then the mandated reporter may report externally.

(d) A facility may not prohibit a mandated reporter from reporting externally, and a facility is prohibited from retaliating against a mandated reporter who reports an incident to the common entry point in good faith. The written notice by the facility must inform the mandated reporter of this protection from retaliatory measures by the facility against the mandated reporter for reporting externally.

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Subd. 7. Failure to report.

A mandated reporter who negligently or intentionally fails to report is liable for damages caused by the failure. Nothing in this subdivision imposes vicarious liability for the acts or omissions of others.

Subd. 8. Evidence not privileged.

No evidence regarding the maltreatment of the vulnerable adult shall be excluded in any proceeding arising out of the alleged maltreatment on the grounds of lack of competency under section 595.02.

Subd. 9. Common entry point designation.

(a) The commissioner of human services shall establish a common entry point effective July 1, 2014. The common entry point is the unit responsible for receiving the report of suspected maltreatment under this section.

(b) The common entry point must be available 24 hours per day to take calls from reporters of suspected maltreatment. The common entry point shall use a standard intake form that includes:

- (1) the time and date of the report;
- (2) the name, address, and telephone number of the person reporting;
- (3) the time, date, and location of the incident;
- (4) the names of the persons involved, including but not limited to, perpetrators, alleged victims, and witnesses;
- (5) whether there was a risk of imminent danger to the alleged victim;
- (6) a description of the suspected maltreatment;
- (7) the disability, if any, of the alleged victim;
- (8) the relationship of the alleged perpetrator to the alleged victim;
- (9) whether a facility was involved and, if so, which agency licenses the facility;
- (10) any action taken by the common entry point;
- (11) whether law enforcement has been notified;
- (12) whether the reporter wishes to receive notification of the initial and final reports; and
- (13) if the report is from a facility with an internal reporting procedure, the name, mailing address, and telephone number of the person who initiated the report internally.

(c) The common entry point is not required to complete each item on the form prior to dispatching the report to the appropriate lead investigative agency.

(d) The common entry point shall immediately report to a law enforcement agency any incident in which there is reason to believe a crime has been committed.

(e) If a report is initially made to a law enforcement agency or a lead investigative agency, those agencies shall take the report on the appropriate common entry point intake forms and immediately forward a copy to the common entry point.

(f) The common entry point staff must receive training on how to screen and dispatch reports efficiently and in accordance with this section.

(g) The commissioner of human services shall maintain a centralized database for the collection of common entry point data, lead investigative agency data including maltreatment report disposition, and appeals data. The common entry point shall have access to the centralized database and must log the reports into the database and immediately identify and locate prior reports of abuse, neglect, or exploitation.

(h) When appropriate, the common entry point staff must refer calls that do not allege the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might resolve the reporter's concerns.

(i) A common entry point must be operated in a manner that enables the commissioner of human services to:

(1) track critical steps in the reporting, evaluation, referral, response, disposition, and investigative process to ensure compliance with all requirements for all reports;

(2) maintain data to facilitate the production of aggregate statistical reports for monitoring patterns of abuse, neglect, or exploitation;

(3) serve as a resource for the evaluation, management, and planning of preventative and remedial services for vulnerable adults who have been subject to abuse, neglect, or exploitation;

(4) set standards, priorities, and policies to maximize the efficiency and effectiveness of the common entry point; and

(5) track and manage consumer complaints related to the common entry point.

(j) The commissioners of human services and health shall collaborate on the creation of a system for referring reports to the lead investigative agencies. This system shall enable the commissioner of human services to track critical steps in the reporting, evaluation, referral, response, disposition, investigation, notification, determination, and appeal processes.

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Subd. 9a. Evaluation and referral of reports made to common entry point unit.

The common entry point must screen the reports of alleged or suspected maltreatment for immediate risk and make all necessary referrals as follows:

(1) if the common entry point determines that there is an immediate need for adult protective services, the common entry point agency shall immediately notify the appropriate county agency;

(2) if the report contains suspected criminal activity against a vulnerable adult, the common entry point shall immediately notify the appropriate law enforcement agency;

(3) the common entry point shall refer all reports of alleged or suspected maltreatment to the appropriate lead investigative agency as soon as possible, but in any event no longer than two working days; and

(4) if the report contains information about a suspicious death, the common entry point shall immediately notify the appropriate law enforcement agencies, the local medical examiner, and the ombudsman for mental health and developmental disabilities established under section 245.92. Law enforcement agencies shall coordinate with the local medical examiner and the ombudsman as provided by law.

Subd. 9b. Response to reports.

Law enforcement is the primary agency to conduct investigations of any incident in which there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately. Each lead investigative agency shall complete the investigative process for reports within its jurisdiction. A lead investigative agency, county, adult protective agency, licensed facility, or law enforcement agency shall cooperate in coordinating its investigation with other agencies and may assist another agency upon request within the limits of its resources and

expertise and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). The lead investigative agency shall obtain the results of any investigation conducted by law enforcement officials. The lead investigative agency has the right to enter facilities and inspect and copy records as part of investigations. The lead investigative agency has access to not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to conduct its investigation. Each lead investigative agency shall develop guidelines for prioritizing reports for investigation.

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Subd. 10. Duties of county social service agency.

(a) Upon receipt of a report from the common entry point staff, the county social service agency shall immediately assess and offer emergency and continuing protective social services for purposes of preventing further maltreatment and for safeguarding the welfare of the maltreated vulnerable adult. The county shall use a standardized tool made available by the commissioner. The information entered by the county into the standardized tool must be accessible to the Department of Human Services. In cases of suspected sexual abuse, the county social service agency shall immediately arrange for and make available to the vulnerable adult appropriate medical examination and treatment. When necessary in order to protect the vulnerable adult from further harm, the county social service agency shall seek authority to remove the vulnerable adult from the situation in which the maltreatment occurred. The county social service agency may also investigate to determine whether the

conditions which resulted in the reported maltreatment place other vulnerable adults in jeopardy of being maltreated and offer protective social services that are called for by its determination.

(b) County social service agencies may enter facilities and inspect and copy records as part of an investigation. The county social service agency has access to not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to conduct its investigation. The inquiry is not limited to the written records of the facility, but may include every other available source of information.

(c) When necessary in order to protect a vulnerable adult from serious harm, the county social service agency shall immediately intervene on behalf of that adult to help the family, vulnerable adult, or other interested person by seeking any of the following:

(1) a restraining order or a court order for removal of the perpetrator from the residence of the vulnerable adult pursuant to section 518B.01;

(2) the appointment of a guardian or conservator pursuant to sections 524.5-101 to 524.5-502, or guardianship or conservatorship pursuant to chapter 252A;

(3) replacement of a guardian or conservator suspected of maltreatment and appointment of a suitable person as guardian or conservator, pursuant to sections 524.5-101 to 524.5-502; or

(4) a referral to the prosecuting attorney for possible criminal prosecution of the perpetrator under chapter 609.

The expenses of legal intervention must be paid by the county in the case of indigent persons, under section 524.5-502 and chapter 563.

In proceedings under sections 524.5-101 to 524.5-502, if a suitable relative or other person is not available to petition for guardianship or conservatorship, a county employee shall present the petition with representation by the county attorney. The county shall contract with or arrange for a suitable person or organization to provide ongoing guardianship services. If the county presents evidence to the court exercising probate jurisdiction that it has made a diligent effort and no other suitable person can be found, a county employee may serve as guardian or conservator. The county shall not retaliate against the employee for any action taken on behalf of the ward or protected person even if the action is adverse to the county's interest. Any person retaliated against in violation of this subdivision shall have a cause of action against the county and shall be entitled to reasonable attorney fees and costs of the action if the action is upheld by the court.

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Subd. 14. Abuse prevention plans.

(a) Each facility, except home health agencies and personal care attendant services providers, shall establish and enforce an ongoing written abuse prevention plan. The plan shall contain an assessment of the physical plant, its environment, and its population identifying factors which may encourage or permit abuse, and a statement of specific measures to be taken to minimize the risk of abuse. The plan shall comply with any rules governing the plan promulgated by the licensing agency.

(b) Each facility, including a home health care agency and personal care attendant services providers, shall develop an individual abuse prevention plan for each vulnerable adult residing there or receiving services from them. The plan shall contain an individualized assessment of: (1) the person’s susceptibility to abuse by other individuals, including other vulnerable adults; (2) the person’s risk of abusing other vulnerable adults; and (3) statements of the specific measures to be taken to minimize the risk of abuse to that person and other vulnerable adults. For the purposes of this paragraph, the term “abuse” includes self-abuse.

(c) If the facility, except home health agencies and personal care attendant services providers, knows that the vulnerable adult has committed a violent crime or an act of physical aggression toward others, the individual abuse prevention plan must detail the measures to be taken to minimize the risk that the vulnerable adult might reasonably be expected to pose to visitors to the facility and persons outside the facility, if unsupervised. Under this section, a facility knows of a vulnerable adult’s history of criminal misconduct or physical aggression if it receives such information from a law enforcement authority or through a medical record prepared by another facility, another health care provider, or the facility’s ongoing assessments of the vulnerable adult.

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