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OHIO ELDER ABUSE TASK FORCE REPORT



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January 12, 2005

The Honorable Bob Taft
Governor
Riffe Center
77 S. High Street
Columbus, Ohio 43215

Dear Governor Taft:

As a follow-up to the Ohio Post-National Policy Summit on Elder Abuse, our offices convened the Ohio Elder Abuse Task Force in December 2003 to study and make recommendations regarding elder abuse, neglect and exploitation occurring in Ohio, as well as the sufficiency of existing programs and systems tasked to address these issues. The task force was charged with increasing awareness of elder abuse, providing statewide coordination of elder-abuse identification, prevention and treatment activities, and recommending policy, funding and programming to effectively address elder abuse statewide.

Comprised of more than 30 decision-makers from a broad range of agencies and organizations capable of developing meaningful measures to protect the elderly, the task force met monthly with the firm goal of producing a report that included a plan to address elder abuse. Members examined practices implemented in other states and considered collaborative efforts that already existed among state agencies to protect vulnerable adults. Consistent with their charge, they developed recommendations for public policies that can help reduce the problem of elder abuse in our society.

We are pleased to present you with that report and look forward to working with you and the Ohio General Assembly to implement significant state policies that protect one of Ohio's most precious assets — its elderly.

Very Truly Yours,

Handwritten signature of Jim Petro in black ink.

Jim Petro
Attorney General

Handwritten signature of Joan W. Lawrence in black ink.

Joan W. Lawrence
Director, Ohio Department of Aging

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CHAPTER 1 — EXECUTIVE SUMMARY

In December 2003, Ohio Attorney General Jim Petro and Department of Aging Director Joan W. Lawrence convened the Ohio Elder Abuse Task Force (hereafter Task Force) to study and make recommendations regarding Ohio's elder abuse, neglect and exploitation (hereafter elder abuse) programs and systems. Elder abuse experts from across Ohio, including practitioners, advocates, academicians, law enforcement and medical professionals met as a follow-up to the National Policy Summit on Elder Abuse, which recommended a state-by-state response. Ohio, thus, was one of the first states in the nation to initiate such a plan. This report builds upon the interim recommendations released in August 2004.

A society may be judged by how it treats both its youngest and eldest citizens. No one should have to choose between caring for at-risk children or vulnerable elderly. The report seeks to elevate elder abuse to an issue of primary concern for the state.

The Task Force focused on three priorities:

- Raise awareness of, and increase education about, elder abuse.
- Provide statewide coordination to elder abuse identification, prevention and treatment activities.
- Recommend policy, funding and programming to address elder abuse more effectively.

The Task Force established three standing committees to carry out its mission. The committees were Visibility, Coordination and Policy. This final report, including the 21 recommendations contained within, is their work.

The Task Force faced certain challenges. Time constraints required that several outstanding issues be identified for future consideration. Therefore, the recommendations contained within this report do not reflect the totality of issues and concerns that must be addressed if we are to adequately serve and protect Ohio's vulnerable adults. These issues are discussed in **Chapter 4 — Issues for Future Consideration**.

The recommendations in this report form a comprehensive charge for the state of Ohio. Leaders must take decisive steps to prevent abuse, neglect and exploitation and to implement effective interventions. To emphasize and further clarify these issues, each recommendation includes Ohio's experience and an implementation strategy. See **Chapter 5 — Recommendations and Implementation Strategies**.

The Visibility committee developed a public awareness campaign to heighten awareness of, and education on, elder abuse. The campaign includes public service announcements, posters, informational literature, a web site and a toll-free hotline.

The Coordination committee drafted legislation that would mandate a memorandum of understanding (MOU) in each county. The MOU would create an interdisciplinary team (I-Team) to improve the response of the community to victims of elder abuse. This memorandum, signed by agencies from a variety of disciplines, will define the responsibilities and relationships among the participants with respect to prevention, reporting, investigation, treatment and prosecution of elder abuse cases.

The Policy committee recommends the state:

- Amend the guardianship law to permit probate courts to appoint a nonprofit agency to serve as a guardian.
- Expand injunctive authority to the state long-term care ombudsman (SLTCO) to include violations of rights in licensed adult care facilities.
- Amend the adult care facility licensing statute to:
 - ◇ Allow for intermediate remedial action and address repeat violations.
 - ◇ Create an enforcement mechanism for entities that place adults in facilities that are unable to meet their needs.

- Convene a task force to research the desirability and feasibility of developing and maintaining a perpetrators registry for abusers and exploiters of the elderly.
- Amend the Adult Protective Services (APS) law to specify the state agency's responsibilities, including monitoring, data collection and analysis, funding and training.
- Amend the APS law to eliminate a gap in services when an alleged victim of abuse moves into a long-term care facility and an investigation has not yet been completed.
- Expand the APS law to include additional mandatory reporters.
- Eliminate the language in the APS law that makes the provision of services contingent upon the availability of funds.
- Amend the APS law to add abandonment to the definition of neglect of an impaired older person by their caregiver.
- Amend the APS exploitation definition to include the exploitation of an elderly person by any other person, not just by caretakers.
- Amend the APS law to mandate formal comprehensive and coordinated training for all APS workers.
- Amend the APS law to allow law enforcement, county Departments of Job and Family Services or their designees to seek ex parte emergency orders by telephone.
- Increase availability of intervention services statewide as specified in the APS law.
- Develop practice guidelines and tools for assessing and making recommendations regarding incapacity and incompetency status per Ohio's APS and guardianship laws, respectively.
- Establish funding for at least one full-time APS worker for each of Ohio's 88 counties.
- Amend the criminal statutes to enhance the penalties for selected offenses in which perpetrators victimize elderly persons.
 - ◊ Define "elderly" in the criminal codes to mean any person 60 years of age or older.
- Add telemarketing fraud and prohibited telephone solicitations to the designated offenses for which a wiretap or electronic surveillance may be obtained.

To ensure the implementation of the work of the Task Force, the Task Force strongly recommends that the Governor create a steering committee to monitor, advocate and build coalitions around the implementation of the recommendations contained within this report. We further recommend that the Governor take the necessary steps to ensure that the committee receives appropriate and adequate staffing for not less than two years.

CHAPTER 2 — OHIO'S HISTORY AND RESPONSE TO ELDER ABUSE

Since the mid-1970s, Ohio has shown its concern about elder abuse by enacting related laws and giving state agencies specific functions to address the problem. These laws are both civil and criminal. Some relate to elder abuse in the community and others in facility-based care settings. Certain laws are directed specifically at elder abuse (e.g., APS law), while other abuse statutes include older people among targeted populations (e.g., persons with mental retardation or developmental disabilities). Finally, some laws only indirectly cover elder abuse, such as the statutes regarding theft, rape and homicide.

State health and human service agencies and their local representatives have roles in elder abuse prevention or treatment. For some agencies, role delineation largely comes from federal mandate (e.g., from the Older Americans Act for the Ohio Department of Aging and its Area Agencies on Aging). For others it comes from state mandate (e.g., APS law for the Ohio Department of Job and Family Services and its county APS programs). Nevertheless, the variety of state agencies with responsibility for addressing elder abuse is impressive. Besides those already named, they include the Attorney General's Office and the Ohio Departments of Insurance, Health, Mental Health and Mental Retardation/Developmental Disabilities (MRDD).

In addition to government agencies, numerous state and local associations in Ohio have shown an interest in elder abuse during the past two decades. Many represent professional networks. Most have demonstrated their interest through prevention, education or advocacy activities. They include the Ohio Coalition for Adult Protective Services, Ohio Domestic Violence Network, Action Ohio, Ohio Association of Area Agencies on Aging, Ohio Association of Regional Long-Term Care Ombudsmen and the Buckeye State Sheriffs' Association.

Despite the broad base of concern about elder abuse in this state, historically little effort has been made to mobilize these diverse agencies and associations and channel their resources and expertise into cooperative problem-solving and collective action. Moreover, the limited past efforts in this regard either tended to pit concerns about elder abuse against those of child abuse and partner abuse (i.e., Governor's Task Force on Family Violence 1985-86) or lacked effective authority (i.e., Protective Services Roundtable 1987). In addition, neither of these early efforts provided implementation oversight for the recommendations they offered.

The Problem of Elder Abuse

Although elder abuse has no universally accepted definition — its meaning varies among state laws and among researchers — there is widespread agreement that elder abuse is a complex and serious problem in Ohio. It has a serious and devastating effect on growing numbers of older citizens and requires immediate, collective action across government agencies and professional disciplines.

Elder abuse represents any act that causes harm or creates a risk of harm to a vulnerable older person by someone in a relationship of trust to that person. It also is the failure of a caregiver to provide for the basic needs of an older person or to protect the older person from harm. Finally, in Ohio and many other states, elder abuse includes the failure of the older person to provide such basic needs for him- or herself because of impairment or other limitations, such as poverty.

As evident in these definitions, elder abuse takes many different forms. They range from physical, psychological, sexual and financial abuse to neglect and self-neglect. Their consequences for victims can be grave, including injury, pain, mental anguish, financial loss, violation of rights and even death. Indeed, research on the mortality of elder abuse suggests that victims are more than three times more likely to die within three years than non-victims. Recent Ohio newspaper headlines reveal the severe effects of elder abuse upon victims: "Woman Charged in Mom's Starvation," "Home Aide Accused of Looting Man's Savings," "Woman Charges Mother Mistreated at Nursing Home," and "Woman Found Dead in Home; Son Arrested."

The Scope of Elder Abuse in Ohio

Like many crimes that can involve isolation, embarrassment and protection of a family member, elder abuse is typically not reported to authorities, even in states like Ohio with mandatory elder abuse reporting laws or when elder abuse can be classified as a crime. As a result, elder abuse is largely hidden, and research on the subject has lagged behind that of other abused populations.

Applying the best national estimates to Ohio suggests that approximately 60,000 citizens age 65 and older have been mistreated by someone on whom they relied for care or protection. With the inclusion of self-neglect, the estimated frequency increases to 90,000. This includes elder abuse in both domestic and institutional settings. Nonetheless, state reports reveal just a small portion of the problem. Research indicates that at best one in five elder abuse situations are reported to authorities; for certain forms of abuse, reporting is much lower: as low as one in 14 or one in 25 for physical abuse and financial abuse, respectively. In Ohio during fiscal year 2003, with just 60 percent of the 88 counties submitting incident data, there were 10,346 elder abuse reports to APS.

CHAPTER 3 — RECOMMENDATIONS

Summary and Ohio's Challenge

The recommendations set forth in the report form a comprehensive charge for the state of Ohio. Leaders must take decisive steps to prevent elder abuse and to implement effective interventions.

The Task Force recommendations focus on strategies to increase awareness, improve local and state collaboration, and provide a comprehensive approach to the complex issues surrounding elder abuse. The recommendations have been organized into five categories including public awareness, collaboration, system continuity, adult protective services program and law enforcement/prosecution. **Chapter 5 – Recommendations and Implementation Strategies** contains the complete recommendation analysis used in the Task Force discussions including the rationale, description of Ohio's experience and suggested implementation strategy.

PUBLIC AWARENESS

According to national statistics, only one in five cases of elder abuse is reported. The effects of unreported abuse can be devastating for the victim. The physical and psychological trauma can be destructive and sometimes fatal. Additionally, the fiscal impact of elder abuse on the health, legal and social service systems will continue to grow as incidents go unreported and unresolved. Public awareness is an integral part of successfully preventing elder abuse.

The Task Force recommends:

- Developing and implementing a two-year, statewide elder abuse public awareness campaign.

The campaign should be targeted to diverse audiences including health care professionals, law enforcement, legislators and the general public. This campaign should include such strategies as public service announcements, posters, brochures, a web site, toll-free hotline and educational videos.

COLLABORATION

State health and human service agencies and their local representatives have roles in elder abuse prevention or treatment. In addition to government agencies, numerous state and local associations in Ohio have shown an interest in elder abuse during the past two decades. However, little effort has been made to mobilize these diverse agencies and associations and channel their resources and expertise into cooperative problem-solving and collective action. Implementing these recommendations will maximize scarce resources and improve the efficiency and accessibility of the service delivery system.

The Task Force recommends:

- Amending the APS statute to mandate an MOU in each county to define the responsibilities and relationships among the participants with respect to the prevention, reporting, investigation, treatment and prosecution of elder abuse cases.
- Amending the APS statute to mandate the creation of an I-team (through the MOU) to improve the response of the community to victims of elder abuse. The I-team would address issues that cross systems. The Task Force drafted language to amend the APS statute, created a sample MOU and developed an I-team manual to expedite the implementation of these recommendations. See **Appendices D, C and B** respectively.
- Developing practice guidelines and tools for assessing and making recommendations regarding incapacity and incompetency status under Ohio's APS and guardianship laws, respectively.
- Establishing a state-level steering committee to oversee the implementation of the Task Force recommendations.

SYSTEM CONTINUITY

Multiple public systems have some role in prevention, detection or resolution of elder abuse. The system continuity recommendations have a common goal of minimizing disruption of the older adult victim's life and improving the ability of the public systems to assure the health, safety and well being of the adult's care.

Recommendations include:

- Allowing probate courts to appoint nonprofit agencies as guardian in lieu of appointing individual staff or volunteers.
- Expanding the SLTCO's injunctive authority to violations of rights in licensed adult care facilities.
- Amending the adult care facility licensing statute to:
 - ◊ Allow for intermediate remedial action and address repeat violations.
 - ◊ Create an enforcement mechanism for entities that place adults in facilities that are unable to meet their needs.
- Creating a task force to research the feasibility and desirability of developing and maintaining a perpetrators registry for abusers and exploiters of the elderly.

ADULT PROTECTIVE SERVICES PROGRAM

Due to the aging of Ohio's population and that the APS program is frequently Ohio's front line in elder abuse identification and prevention, the majority of the Task Force's recommendations call for amendments or enhancement to the APS statute. The APS program was the subject of a 2001 study by The Ohio State University (OSU). See **Appendix H**. The study was used as a resource by the Task Force and provided evidence that the recommendations should emphasize the need for state-level leadership and funding to promote consistency and quality of prevention and protective services for people aged 60 and older.

Recommendations include:

- Amending the APS law to specify the state agency's responsibilities, including monitoring, data collection and analysis, funding, and training.
- Amending the APS law to eliminate a gap in services when an alleged victim of abuse moves into a long-term care facility and an investigation has not yet been completed.
- Expanding mandatory reporters to include entities who interact with older adults and have opportunities to detect abuse.
- Redefining neglect to include abandonment.
- Amending the definition of exploitation to include the exploitation of an elderly person by any other person, not just by caretakers.
- Eliminating the language in APS law that makes the provision of services contingent upon the availability of funds.
- Requiring mandatory training for APS staff.
- Allowing law enforcement, county Departments of Jobs and Family Services or their designees to seek ex parte emergency orders by telephone.
- Increasing the availability of intervention services statewide as specified in the APS law.
- Establish funding for at least one full-time APS worker for each of Ohio's 88 counties.

LAW ENFORCEMENT/PROSECUTION

It is important to recognize that criminal behavior can have a more severe impact on elderly victims who may not recover as easily from violent crimes, and who may not have the means, due to their age, to recover financially from theft or fraud-related crimes. Current statutes provide enhanced criminal penalties only for selected offenses where perpetrators victimize elderly persons.

The Task Force recommends:

- Adding a one-degree penalty enhancement to 16 additional criminal offenses when the victim of a specific crime is an elderly person. These criminal offenses are specified in **Chapter 5 – Recommendations and Implementation Strategies**, and draft statutory amendments are available in **Appendix F**.
- Amending the definition of “elderly” to mean any person 60 years of age or older in Title 29 of the Revised Code.
- Amend the statute to add telecommunications fraud and prohibited telephone solicitations to the list of criminal offenses for which a wiretap or electronic surveillance may be obtained by court order.

CHAPTER 4 — ISSUES FOR FUTURE CONSIDERATION

The Task Force identified several limitations that must be addressed to produce systemic reform and significant improvements to remedy the identified deficiencies in Ohio's elder abuse programs and systems. The goal of the Task Force was to develop a comprehensive interdisciplinary approach to the complex issues surrounding elder abuse and to ensure that Ohio meets its mandate to protect at-risk elderly from elder abuse. The previous 21 recommendations are the first steps in advancing this goal.

To continue to address the barriers to achieving successful outcomes, the following five issues are presented for the steering committee's future consideration.

Population Limitations

Ohio is only one of nine states whose APS laws do not address the age 18-to-59 population. The current APS law identifies the minimum age for service at age 60 but there is no comprehensive system to protect those aged 18 to 59, creating a gap in protective services for victims of abuse. This is primarily due to scarce resources and no existing mandate to provide these services. Furthermore, in the few counties where funding is directed to the age 18-to-59 population, services are fragmented at best and highly vulnerable to reprioritization of resources. The Task Force realized that the totality of elder abuse issues could not be addressed in a single report and chose to address a target population defined by age. The appointment of the steering committee is strongly recommended not only to provide direction for the implementation of the Task Force's recommendations, but to begin addressing elder abuse mandates specifically for those aged 18 to 59. There is strong support from the Multiple Sclerosis Society and others to partner with advocates in order to develop a comprehensive approach to the issues of protecting vulnerable adults of any age.

Services to Perpetrators

Decades of experience in providing APS suggest that elder abuse cannot be effectively resolved unless the issues of both the victim and perpetrator are addressed. Elder abuse research indicates that the characteristics and circumstances of the perpetrator are more important predictors of abuse than those of the victim. Ohio's APS law focuses on providing protective services to the victim and is silent on services for the perpetrator. In the mid-1990s, the Consortium Against Adult Abuse made recommendations to incorporate the perpetrator in intervention strategies. The Task Force members acknowledged that addressing the needs of the perpetrator is an important strategy for ending the abuse; however, could not reach consensus on how this would be implemented and by whom. Points of disagreement included, among others, conflict of interests, care planning and victim consent. The Task Force agreed that the issue warrants further discussion and resolution within the steering committee.

Elder Justice Act

Federal legislation introduced in 2002 was the first federal comprehensive effort to address elder abuse. The bill would combine a law enforcement, public health and social service approach to study, detect, treat, prosecute and prevent elder abuse. It would provide the opportunity to conduct necessary research and training, respond to the needs of victims and hold offenders accountable. Most importantly, it would be a funding source and provide national coordination for elder abuse programs and systems.

The bill did not pass before the end of the 108th Congress; therefore, renewed advocacy efforts are needed. The bill would bring federal resources to states and provide guidance, as well as national focus to the same issues considered by the Task Force. The steering committee and Ohio's legislative leaders need to advocate with Ohio's congressional members for successful passage of the act in the next Congress.

Permanent Administrative Location for Adult Protective Services

Ohio's APS program has a long history as a neglected and under-funded service program. The Ohio Department of Job and Family Services (ODJFS) is mandated to provide oversight and has struggled to maintain resources without adequate support. Consequently, this has had a negative impact on the local agencies. Given the broad scope of the agency's other responsibilities and mission, ODJFS has been unable to provide the leadership and support required of APS. This gap in leadership is reflected in the decline of state funding for APS, as well as the absence of needed change in state law to capture the evolution and understanding about elder abuse and the interventions required to address it.

Due to this history, the aging of Ohio's population and that APS is frequently the front line in elder abuse identification and prevention, the Task Force believes that a decision must be reached regarding what state agency is most appropriate to provide the state leadership for this program. Placement considerations must include the agency's ability to prioritize the program and recognize the importance and value of the program.

Sufficient Funding for Adult Protective Services

Funding remains a critical problem for the APS program. The Task Force was unable to determine the total cost of operating APS and providing protective services, due to the lack of statewide data. As noted in the OSU report, APS funding varies considerably among Ohio counties, resulting in inconsistencies in services and protections for the elderly. The Task Force recognizes that many of the APS program recommendations have a cost associated with implementation. Given the present budget restraints, the Task Force identified the following potential revenue sources for the steering committee to consider:

1. Earmark Temporary Assistance to Needy Families (TANF) funds for APS service needs.
2. Advocate for the enactment of the Elder Justice Act, which includes funding for APS in each state.
3. Increase outreach and education regarding the Ohio Victims of Crime Fund, especially for aging and APS professionals.
4. Create a voluntary check-off on the state income tax form allowing \$1 of a person's income tax to be directed to the APS program.
5. Create an APS license plate to support APS programs.
6. Create an elder abuse stamp along the lines of the breast cancer awareness stamp. The cost of 20 stamps would be \$9, with \$1.60 going to elder abuse programs.

Any new state funding for APS must be accompanied by a maintenance of effort requirement at the county level for existing protective services to older and/or disabled adults. The Task Force further recommends that the funding formula include a base funding allocation for each county.

CHAPTER 5 — RECOMMENDATIONS AND IMPLEMENTATION STRATEGIES

Introduction

This chapter contains the complete analysis used by the Task Force in formulating the recommendations. Each recommendation includes the rationale, description of Ohio's experience and suggested implementation strategy. For ease in locating a specific analysis, the recommendations are organized by topic as outlined in **Chapter 3 – Recommendations**.

PUBLIC AWARENESS

1. Recommendation

Develop and implement a two-year statewide public awareness campaign that addresses elder abuse.

Rationale

Elder abuse has historically received little attention, primarily due to poor understanding and realization among the general public that such a large and destructive problem exists. Too often, allegations from the elderly are dismissed as unreliable, and often embarrassment, fear, isolation and protection issues hinder reporting, resulting in a gross underestimate of the number of cases. Yet, it is estimated that elder abuse inflicts injury and suffering on an estimated one to two million older Americans annually. Since 1996, there has been a 61 percent increase in the number of elder abuse allegations received nationwide (*National Center on Elder Abuse*).

The effects of unreported abuse can be devastating for the victim. The physical and psychological trauma is not only damaging, but can be fatal. Additionally, the fiscal impact of elder abuse on the health, legal and social service systems will continue to grow as incidents go unreported and unresolved.

Public awareness and education is an integral part of successfully preventing elder abuse. Hence, the need for a statewide public awareness campaign is both critical and timely.

Ohio's Experience

There are currently close to two million Ohioans age 60 and older – comprising more than 17 percent of the state's population (*U.S. Census Bureau 2000*).

Demographic projections call for this population to continue to grow during the next 10 years (*Ohio Department of Development, Office of Strategic Research*). By 2020, there will be nearly three million Ohioans in this group, a 44 percent increase (*Profile and Projections of the 60+ Population, Scripps Gerontology Center*). As the number of people living longer dramatically increases, so does the risk of abuse, neglect and exploitation.

There were 53,408 reports of elder abuse in the community reported to APS within the last five years and more than 1,500 reports to the SLTCO the last three years.¹ Unfortunately, these numbers represent only a fraction of the number of older adult victims. According to national statistics, only one in five cases of elder abuse is reported (*National Center on Elder Abuse*).

Since the inception of the APS law [ORC 5101.60-71], there has not been a widespread public awareness campaign to educate Ohioans on elder abuse issues.

¹ On average, 60 percent of the APS agencies submitted their data.

Implementation Strategy

The target audiences include, but are not limited to, health care professionals, law enforcement, legislators and the general public. Various strategies will be employed in an effort to reach diverse audiences:

- Distribute 100,000 posters and 500,000 informational brochures statewide.
- Create and market two public service announcements for electronic and print mediums.
- Host a web site dedicated to elder abuse via the Ohio Attorney General's official web site.
- Create an educational video on elder abuse.
- Submit press release materials to local newspapers on current elder abuse issues.
- Host community forums on elder abuse throughout metropolitan and rural Ohio regions.
- Provide legislators with informational brochures, white papers on elder abuse and annual data on elder abuse trends within Ohio and nationally.
- Create a toll-free hotline to link callers with local APS or other appropriate agencies.

COLLABORATION

2. Recommendation

To create legislation that would mandate an MOU in each county defining the responsibilities and relationships among the participants involved in the prevention, reporting, investigation, treatment and prosecution of elder abuse cases.

Rationale

Often, several public agencies have responsibility for elder abuse cases. The MOU brings individuals and agencies together that are essential to achieving the objective of elder protection. The MOU is a cost-efficient initiative that brings these offices together to determine roles and responsibilities of each agency. The MOU is a tool that provides direction to all agencies involved. It confirms a commitment to address the issues and educates all departments on the roles of others. It is effective in reducing and eliminating issues that may overlap. The MOU essentially formulates a plan, requires participation of key agencies and provides a reference for interested and responsible parties.

Ohio's Experience

There is currently no mandate that requires counties to formulate a community-based plan to address elder abuse. Children service agencies have developed MOU's that have proven effective. The MRDD Victims of Crime task force adopted this mandate for counties regarding individuals with MRDD. This would provide consistency for Ohio's vulnerable populations — children, individuals with MRDD and the elderly.

Implementation Strategy

- Amend the APS law to require county Departments of Job and Family Services or their designees to assume the lead in developing an MOU.
- Include provisions which require key public agencies to participate actively in the development and implementation of the MOU, including the Area Agency on Aging.
- Distribute the draft MOU to county Departments of Job and Family Services **now** to encourage counties to proceed with this recommendation in the absence of current legislation. **Appendices D and C** include draft statutory language and a sample MOU, respectively.

3. Recommendation

Amend APS statute to mandate the development of an I-Team, through the MOU, to improve the response of the community and service agencies to victims of elder abuse. I-Teams would address issues that cross systems.

Rationale

The goal is to improve the response of the community and service agencies to elder victims of abuse, neglect and exploitation. The I-Team will be comprised of a group of professionals from a variety of disciplines who will meet regularly to discuss and provide consultation on specific cases of elder abuse. These individuals will work together to determine the best service plans for each case. The remedy for elder abuse transcends disciplines and requires a joint effort to aid in the protection of a vulnerable population.

Ohio's Experience

There is currently no mandate for collaborative participation to address issues of elder abuse. I-Teams would mirror, in many respects, the multidisciplinary teams found within the children services field.

Implementation Strategy

Implementation of I-Teams will be drafted within the language of the MOU. **Appendices D and B** contain draft statutory language and an I-Team Manual, respectively.

4. Recommendation

Utilize Western Reserve Geriatric Education Center (WRGEC) at Northeastern Ohio Universities College of Medicine to develop practice guidelines and tools for assessing and making recommendations regarding incapacity and incompetence status per Ohio's APS law and guardianship law, respectively. In addition, the WRGEC should disseminate these guidelines to health care professionals statewide who provide clinical services to older adults. Dissemination may take whatever form is appropriate to target professional disciplines, including grand rounds, seminars and magazine or newsletter articles.

Rationale

Only county probate courts can decide whether or not a person is "incapacitated" or "incompetent" under law. However, in making their decisions, courts rely on information provided by various sources, particularly from those in the health care professions, like psychiatry, psychology, medicine and social work. To date, little has been developed specifically for Ohio professionals in this arena, resulting in considerable confusion and concern as professionals struggle with individual situations of elder abuse where victims exhibit possible mental disorders which result in functional limitations of judgment or decision-making. The WRGEC is uniquely suited to develop these guidelines, given its: (1) federal mandate in geriatric and professional gerontology education, facility development and curriculum formation; (2) long history of involvement in elder abuse prevention; and (3) national recognition for expertise in elder law and protective interventions. When approached by the Task Force, officials with WRGEC were not only very interested, but agreed to do so if requested.

Ohio's Experience

Since the early 1980s, various conferences and workshops have been held to discuss the definition and measurement of incapacity and incompetence. However, no best practices have been decided upon to provide the necessary guidance and tools for adequate and consistent assessment and for court recommendations.

Implementation Strategy

Request that the WRGEC include this recommended initiative in its new grant application to the Bureau of Health Professions. The bureau is a federal agency which serves to identify, fund, oversee and coordinate the work of Geriatric Education Centers across the country. It has been the primary funding source for the WRGEC since the program's inception. By including the recommended initiative in the WRGEC's grant application, the initiative becomes one of the funded activities of the WRGEC upon acceptance of its application by the bureau.

5. Recommendation

Establish a state-level steering committee by the Governor to oversee the implementation of the Task Force recommendations.

Rationale

To ensure the implementation of the Task Force recommendations and that the issues for future consideration are addressed, a steering committee should be formed to follow through and direct activities. The role of the steering committee should include dimensions of monitoring, advocacy and coalition building. The committee should also be positioned to provide ongoing visibility to elder abuse as a problem and offer technical assistance to legislators, state agencies, community leaders, voluntary organizations and professional associations that are involved in the implementation of the recommendations. The technical assistance role of the committee should include dimensions of information and referral, along with consultation.

Ohio's Experience

Since the mid-1980s, there have been at least two multidisciplinary, multi-agency state-level groups which made policy and practice recommendations for addressing elder abuse in Ohio. The first was a subcommittee of the Ohio Task Force on Family Violence convened by Governor Richard Celeste in 1985-1986, and the second was the Protective Services Roundtable convened by the Ohio Department of Aging in 1987. Although many good ideas came from these groups, the continued inability to affect the elder abuse problem can be attributed to several factors, most importantly the lack of implementation oversight by any established entity. Sustained attention and follow-through failed to take place.

Implementation Strategy

As representatives of sponsoring agencies of the Task Force, the Ohio Attorney General and the Director of the Ohio Department of Aging should request that the Governor convene a steering committee to oversee the Task Force recommendations and request that the committee be comprised of the following:

- Officials from state agencies with designated responsibility for implementing specific task force recommendations.
- Representatives from professional and advocacy associations whose missions are consistent with the Task Force recommendations or who also have designated responsibility for implementing specific Task Force recommendations.
- Individuals with expertise and experience in the field of elder abuse who can offer information and advice useful to the work of the committee.

The committee will exist for at least two years and receive appropriate and adequate staffing and administrative support.

SYSTEM CONTINUITY

6. Recommendation

Nonprofit agencies providing guardianship services to wards whose incompetence is based upon a mental disability other than MRDD should be allowed as corporations to be appointed guardians of the person for these wards. Such agencies should adopt policies and procedures to identify and remedy any actual or perceived conflicts of interests held by their agencies or their agents. Moreover, public funds should be made available to pay for agency-based guardianship services rendered on behalf of indigent wards.

Rationale

Currently, several nonprofit agencies in Ohio provide guardianship services to indigent elderly and/or younger adult wards with non-MRDD mental disabilities using volunteers and/or staff. In all instances, guardianship appointment is made to individual volunteers or staff, creating difficulties when the guardians die, move or resign. Agency appointment would remove the necessity of returning to probate court to secure another appointment. Furthermore, guardianship services agencies struggle to remain fiscally solvent – a situation that has grown worse in these times of public and private sector funding cuts and growing service demand with increasing elderly and disabled adult populations, often lacking available or adequate family supports. Frequently, guardianship appointment is used to protect victims of elder abuse, especially in situations where the older person's impairment is dementia.

Ohio's Experience

Since 1970, the guardianship law (ORC 2111.10) has permitted the probate court to appoint a corporation as guardian of the person, but only for a nonprofit agency "that has a contract with the Department of MRDD" and providing guardianship services for persons with MRDD. Since 1983, the agency, under contract with the Department of MRDD, has been Advocacy and Protective Services, Inc., which presently serves about 3,800 clients statewide. Annually, the agency receives more than \$4.7 million of state and federal funding from the department for guardianship and protective services. The agency's caseload size is maintained at 60 wards per protective services worker.

Implementation Strategy

Amend ORC 2111.10 to permit probate courts to appoint a corporation to serve as guardian of the person when a nonprofit agency has a contract with the departments of Aging, Job and Family Services, or Mental Health. Line-item funding should be provided through the state biennium budget for these agencies to offer guardianship services to indigent wards lacking alternative sources for guardianship assistance. Additionally, in keeping with established national standards for guardianship services, caseload size should be maintained in these agencies at 20 wards per APS worker.

7. Recommendation

Expand the authority of the SLTCO to seek an injunction against adult care facilities that violate resident rights under Chapter 3722 of the Ohio Revised Code.

Rationale

When the Ohio Ombudsman Enabling Law was enacted, the adult care facility licensure law had not yet been enacted, so the statutory reference was not included.

Ohio's Experience

The Ombudsman's injunctive authority currently applies only to nursing homes and residential care facilities and the office has been able to use the authority in two cases to keep facilities from illegally discharging residents.

Implementation Strategy

Amend the statute to allow the SLTCO injunctive authority in adult care facilities. See **Appendix E** for statutory change.

8. Recommendation

Statutory changes and clarifications should be made to improve the ability of agencies to assure the health, safety and well being of residents in adult care facilities. Specifically, these are changes to the statute that provide for remedial action and address repeat violations. Statutory amendments are also needed to address inappropriate placement of residents.

Rationale

Ohio's current enforcement statute does not provide for intermediary remedial steps for adult care facilities. At present, options include suspending admissions and proposing civil monetary penalties, the latter of which can be avoided if a facility takes corrective action — an “all or nothing” proposition. Without intermediate steps, serious and/or repeat infractions are erased and the potential deterrent effect of a sanction is lost. With intermediate actions and wider latitude for imposing fines, repeat infractions could likely decrease. Additionally, clearer agreement needs to be reached between the Ohio Department of Health and the Attorney General's Office on what constitutes a repeat violation.

Additionally, although current statute provides that no entity can inappropriately place a resident in a facility, especially the mentally ill or those with severe behavioral problems, there is no mechanism in place for enforcement.

Ohio's Experience

In 1999, a work group representing the Ohio departments of Aging, Health and Mental Health agreed that changes were needed to improve their ability to assure quality of resident care in adult care facilities and accessibility to specialized services needed by residents diagnosed with mental illness. In 2002, a report was issued that contained elevation of these changes. Although numerous improvements were found, the 2002 evaluative report contained further suggestions for system improvements, including specific recommendations regarding adequate enforcement remedies, such as strengthening the statute's ability to provide adequate incentive for compliance, as well as clarification.

Implementation Strategy

The Ohio Department of Health will seek input from the Ohio departments of Aging and Mental Health to amend current statute to achieve these specified recommendations.

9. Recommendation

A task force shall be developed to research the feasibility and desirability of developing and maintaining a perpetrators registry for abusers and exploiters of the elderly. This task force shall contact states that maintain such registries to learn about their experiences and conduct research regarding constitutional issues surrounding their creation.

Rationale

Currently, there is no all-encompassing database available for either individuals or agencies to check the background of prospective employees who work with the elderly in a variety of settings. There are two problematic areas. The first issue lies in tracking individuals who commit elder abuse and move between settings, such as from a nursing home to an adult care facility. The second issue is that the few database systems that do exist are limited in scope and only track licensed professionals such as State Tested Nursing Assistants (STNAs), social workers and registered nurses. There is no mechanism currently in place to check the background of people who fall outside licensed professions, yet are integral to caring for our elderly, such as unlicensed social workers, homemakers or home health aides. Furthermore, although there is a reporting system for licensed social workers, STNAs and registered nurses, it is not clear who or what entity is obligated to make a report to the licensing agencies and what needs to be reported.

Ohio's Experience

Ohio does not have a central registry of perpetrators of elder abuse. A recent case in Cuyahoga County provides a good example of the problems already described:

Although an STNA was fired from a nursing home as a result of an "improper" relationship and unsubstantiated charges regarding his actions with a resident, no report was made and the person's license remained valid. The same STNA was later employed at a skilled care facility and is currently charged with the rape of an elderly resident. Since his previous dismissal and the grounds for discharge were never reported, his license remained in place and was never questioned.

Implementation Strategy

The Attorney General's Office should form a task force to conduct research and discussions regarding the development of a perpetrators list. The findings and recommendations of this task force shall be given to the steering committee.

ADULT PROTECTIVE SERVICES PROGRAM

10. Recommendation

The state agency responsible for the implementation of APS must regard APS as an integral part of its organizational mission and be proactive in taking appropriate steps to create and maintain a vital and responsive APS system. This entity should adopt rules and procedures that would ensure the viability of the APS system. The state agency responsible for APS should provide assurance that the following roles and responsibilities in the administration of APS will be adopted:

- Assurance that it shall assume a visible and active leadership role in promoting a capable APS service delivery and sufficient APS resources, and create a uniform APS system across all 88 Ohio counties to effectively address the difficult and diverse issues encountered in situations of elder abuse and in this capacity.
- Assurance that it shall create a permanent infrastructure at the state level with sufficient staffing and other resources to develop regulations, monitor county APS agencies compliance, and facilitate APS caseworkers training, and promote innovative practice methods and standards that deviate from conventional methods of delivering services (e.g. preventive services for protection, adult cluster, interdisciplinary team assessments, use of technology in client/resource tracking and monitoring).
- Assurance that the state agency shall seek a mandated funding source to enhance the APS delivery system, as well as ability to undertake the recommended activities by the Task Force and OSU study. In seeking funding and improvement, the state agency will assure collaboration with other public agencies that hold resources, as well as increased dialogue with all collaborating agencies, the state legislature and the public. It will adopt new approaches to communication and public relations.
- Assurance that it shall remove barriers to consistency in the operation of local agencies including differences in level of resources, lack of clarity in policies, procedures and law, and the competing issues pertinent to local autonomy and state function, and collaboration across systems.
- Assurance that it shall mandate county reporting of the adult abuse incidences, demographics and outcomes.

Rationale

A state agency with optimal leadership quality has the potential to meet the varied needs of the local public agencies, whose responsibility is to protect the elder victims of elder abuse. A state agency that is accountable, competent and innovative in its strategies can provide a stable infrastructure including steady funding source, adequate staffing, training, monitoring, technical assistance and creation of a management information system, as well as the ability to implement recommendations originating from the Task Force. Hence, such leadership can develop resources and sustain programs and services that address current and future demands of the growing number of frail elderly in need of protection.

Ohio's Experience

APS in Ohio has a long history of being neglected. As reflected in the history of substandard budget allocations and frequent budget cuts, no entity has ever championed the case for protection of the elderly. Since the inception of the APS law, the state agency mandated to provide oversight has struggled in maintaining adequate resources and support to perform its functions. The absence of state leadership and its impact on the local agencies' ability to support APS activities and interventions is documented in the OSU study (Final Report, April 2001). This study recommends that serious consideration be given to the development of a state leadership role and accountability to ensure enhancement of the current APS systems, as well as the future viability of the APS system in Ohio.

Implementation Strategy

The state agency responsible for APS should be expected to undertake all the roles and responsibilities specified in these recommendations. The APS statute should be amended to define and establish the state agency's role and responsibilities in the administration of the APS program.

11. Recommendation

Amend the APS statute for the purpose of eliminating a potential gap in investigational services when an alleged victim of abuse moves from his or her home into a long term care facility. The amendment would allow for an investigation of the allegation to proceed.

Rationale

Currently, adult is defined in APS statute as an individual who is 60+ years, impaired, the subject of an elder abuse allegation and living in a community setting. By specifying community setting, a gap in investigational services can happen when an incident occurs and the alleged victim is taken from a community setting and placed in a facility. This creates jurisdictional barriers that leave the adult unprotected and at risk especially if the perpetrator is a caretaker or family member who will continue to have access to the victim in the new setting.

Ohio's Experience

Under current law, counties have interpreted that they do not have jurisdiction to investigate the allegation because the alleged victim is no longer in an independent living arrangement. Therefore, these allegations are not being investigated and the alleged victim remains at risk of harm from the perpetrator since the hospital, short-term rehabilitation center or long-term care facility is unaware of the allegation and that the victim needs protection.

Implementation Strategy

The APS law needs to be amended to state that county Departments of Job and Family Services have the authority to investigate allegations of elder abuse when the alleged allegation occurs in an independent living arrangement even when the alleged victim's placement becomes one other than an independent living arrangement.

If the victim is not returning to the community, then the case will be closed, but the information relating to the concerns raised in the APS report shall be shared with the appropriate facility and the SLTCO in order to ensure the continuity of protection from the alleged perpetrator.

12. Recommendation

Expand the mandatory reporters in the APS statute to include pharmacists, firefighters, emergency medical technicians, emergency medical drivers, financial service professionals, employees of banks, animal protection workers, housing and building inspectors, public health department employees and employees of any hospital or state mental health hospital.

Rationale

The APS statute was passed more than 20 years ago with few changes made since. However, the statute addressing mandatory reporters must be expanded to reflect the current environment. Today, seniors come into regular contact with far more front-line service providers than they did two decades ago. For example, financial planning services have greatly expanded their target audience to include the elderly, not just the young and middle-aged. Financial planners and bank employees are among many professionals who are now in positions to detect elder abuse, which includes financial exploitation. Physicians and other hospital personnel are currently mandatory reporters. However, other medical personnel like emergency responders, whose use has significantly increased recently, are not included. Not only are they in a position to medically evaluate an individual, they are often in the person's home. Furthermore, the current statute exempts many groups of employees of long-term care institutions as mandatory reporters. Examples include workers in the mental health institutional system, as well as in some facilities for the mentally retarded. Report of abuse in these facilities is fragmented by current law that requires it to be reported in other systems outside of APS, such as the Ohio State Highway Patrol. Additionally, with the advent of Ohio Access and the emphasis on home and community care, as well as de-institutionalization, the use of such facilities is now minimal and short-term stays are now common, changing the face of who cares for the elderly population.

Ohio's Experience

The number of service providers who come into daily contact with the elderly and often have first-hand knowledge or are first responders to a situation has greatly increased since the APS law went into effect 20 years ago. This increase in front-line individuals necessitates the expansion of those who should be required to report elder abuse. The mandate to report should also be expanded to include those who do in fact frequently report but may not consistently receive information and training. These changes are intended to clarify the critical importance of reporting and increase its occurrence. Training is also crucial to inform the mandatory reporters of their responsibilities and their significant role.

Implementation Strategy

Expand the APS law regarding mandatory reporters to include more service providers and require training of all mandatory reporters.

13. Recommendation

Ohio law must recognize the abandonment of impaired older people by their caregivers as a form of neglect and, therefore, subject to adult protective services intervention.

Rationale

The recognition of abandonment as a form of elder abuse began in the late 1980s, subsequent to the enactment of Ohio's APS law (ORC 5101.60). Awareness was raised as an increasing number of older persons, particularly those with dementia, were abandoned in hospital emergency departments, nursing homes or elsewhere, usually by family members unwilling or unable to care for them any longer. Older persons tended to be left in settings where professionals were present who were seen as able to provide or arrange necessary care. According to a survey by the American College of Emergency Room Physicians, 47 percent of physicians surveyed noted a growing pattern of abandoned sick older Americans, especially women between the ages of 75 and 85. As a result, approximately 12 states, including California and Connecticut, included provisions in their elder abuse laws to address abandonment.

Ohio's Experience

Currently, Ohio law does not address the problem of abandonment, leaving it uncertain as to which public authority, if any, is responsible for protecting abandoned elders, and how that would be done. Beginning in the mid-1990s, the Consortium Against Adult Abuse and Ohio Coalition for Adult Protective Services have issued recommendations for the inclusion of abandonment as a form of neglect in the APS law.

Implementation Strategy

Add the definition of "abandonment" to the APS law based on the recommendations from the Consortium Against Adult Abuse and Ohio Coalition for Adult Protective Services. This would include defining abandonment as "the desertion of an adult by a caretaker" and include abandonment as an aspect of "neglect" and redefine neglect to mean "the failure of an adult to provide for himself the goods or services necessary to avoid physical harm, mental anguish, or mental illness, or the failure of a caretaker to provide such goods or services, or abandonment."

14. Recommendation

To encourage the reporting and investigation of cases of financial exploitation, the definition of exploitation in the APS law should be expanded to include exploitation of an adult by **any person**, and not just by caretakers as it is currently written.

Rationale

Financial planning regarding services to the elderly has expanded since passage of the law, along with significantly greater wealth among current older cohorts. Additionally, the elderly are being more frequently targeted by criminals due to a perceived vulnerability. It is also important to recognize that criminal behavior may have a more severe impact on elderly victims who may not recover as easily from violent crimes and who may not have the means, due to their age, to recover financially from theft or fraud-related crimes.

Ohio's Experience

Currently, the APS program is limited to handling exploitation reports where a caretaker is responsible for the exploitation. Further, the law defines caretaker to be a person **assuming the responsibility for the care of an adult**. This excludes a whole range of perpetrators who prey on the elderly.

Implementation Strategy

Amend the exploitation definition in the APS law to include exploitation of an adult by any person and not just caretakers.

15. Recommendation

Each county shall provide or arrange for the provision of services, based upon the client's cognitive, behavioral and emotional strengths and weaknesses, to formulate case goals and plans with the purpose of eliminating the problems that led to the investigation. These goals and objectives should be time-limited and based upon social work best practices.

Rationale

Current law allows for each county to determine, based upon funding, the extent that services will be provided. Investigation is mandated, but not the provision of services to the victim in order to resolve the problem and prevent further instances of elder abuse. By not requiring that each county engage in casework and case planning after the investigative process, there is nothing to prevent the problem from occurring again. Mandated appropriate, time-limited case goals and objectives should be formulated with the client so that a delivery of services is designed to meet the identified needs of the client and to lessen the chance, or prevent the recurrence, of abuse.

Ohio's Experience

There is tremendous variance in services rendered to victims of elder abuse in Ohio. Whether services are provided or not is dependent upon the county's funding sources and the cost associated with providing services, as well as the availability of support services in the community. Ohio should have an even and fair approach based upon best practices for all victims of elder abuse that should not vary widely with county funding and staffing.

Implementation Strategy

Amend the APS statute (ORC 5101.62) by eliminating the phrase, "and to the extent of available funds." The law should require county Departments of Job and Family Services to arrange for the even and fair provision of protective services.

Their provision shall not be contingent on the availability of funds.

16. Recommendation

ODJFS shall mandate that all APS workers, whether in county agencies or designated agencies, complete a formal, comprehensive and coordinated training about aging, and the identification, prevention and treatment of elder abuse. The training should incorporate knowledge and skill-building components such as investigation and assessment protocols, intervention strategies and domestic violence training.

Rationale

Training provides the basic competencies needed by all APS workers in order to ensure consistency among practitioners and to establish best practice standards. The development of protocols and standards for basic skills will ensure the provision of quality services to all clients equally across the state.

Ohio's Experience

Ohio's APS law does not mandate that county Departments of Job and Family Services implement training. Consequently, there is inadequate and inconsistent training across county departments.

Implementation Strategy

Amend the APS law to mandate the director of ODJFS to provide a program of ongoing, comprehensive, formal training to county departments and other agencies. The director shall adopt rules governing the county departments' implementation, development and dissemination of best practices with respect to protective services and ensure that appropriate funding is available for this purpose.

New APS workers shall be required to complete core classes during their first year of employment. The required core modules will be developed and adjusted by ODJFS as necessary. Additionally, APS workers shall be required to complete 18 hours of specialized and advanced training related to adult protective services practice each year after the first year of employment as continuing education.

17. Recommendation

Law enforcement and county Departments of Jobs and Family Services or their designees should be allowed to seek ex parte emergency orders by telephone in order to remove an alleged elderly victim from danger and secure their safety. The judge or magistrate may issue an ex parte emergency order if there is probable cause to believe that the alleged victim is an incapacitated person or an emergency exists and no person authorized by law or court order to give consent for the adult is available or willing to consent to emergency services.

Rationale

The APS statute currently provides emergency orders, but they are limited to the hours in which the court is in session, which excludes evenings, weekends and holidays. Some APS programs do have availability 24-hours-a-day, seven-days-a-week, through arrangements made with other service agencies (many times law enforcement or children services) that have 24-hour coverage. Allowing for ex parte telephone emergency orders for elder abuse victims will provide further protection to this vulnerable population and enhance law enforcement and APS workers' ability to intervene.

Ohio's Experience

Emergency ex parte orders by telephone are currently only available for minors and adults with mental retardation or developmental disability.

Implementation Strategy

Amend the APS statute to allow for ex parte emergency telephone orders. See **Appendix F** for draft language.

18. Recommendation

Expand existing APS intervention core services in the areas of housing (emergency and general), personal support (companionship programs, homemaker services, home delivered meals and chore services), access services (transportation), home health care and legal to effectively meet the current needs of the APS clients in the community. In conjunction with these identified services, issues such as affordability, accessibility and eligibility should be addressed when developing these services

Rationale

The intervention services offered by APS help prevent reoccurrence of elder abuse, as well as assist clients in maintaining their independence in the community to the extent possible. Intervention strategies should include multiple services since most APS clients have functional and/or mental limitations (National elder Abuse incidence Study, 1998). There is adequate research that shows that in absence of reliable support, most victims of elder abuse experience psychological trauma in conjunction with feelings of isolation, dependency, and loss of control and connection with the community. Regardless of the type of abuse, the most frequently needed services to elder abuse clients include counseling, home health care, case management, supportive services, guardianship, homemaker services, home delivered meals and chore services. While most of these services exist in the community, there is a discrepancy between demand and supply of these services, as documented in the OSU study. See **Appendix H**. For example, providing counseling to clients who are victims of elder abuse is imperative to the work of APS. While most clients received counseling services to varying degrees, it is rationed because of inadequate staffing, high cost and scarcity of this service in the community. Availability of the core services for the prevention of reoccurrence of elder abuse is of paramount importance to the success of APS.

Ohio's Experience

Availability of services for the victims of elder abuse varies widely in Ohio. They depend on the county size, available resources and allocation of resources by the local government entity. Additionally, the absence of a centralized and/or earmarked budget for services and the lack of standardized practices exacerbate the disparity in the service delivery system across the state.

Implementation Strategy

The state should be responsible for identifying and funding the basic core APS services in Ohio. Based on a formula, all APS programs across the state should be given adequate funding to ensure provision of the basic core services that include counseling, home health care, case management, supportive services, guardianship, homemaker services, home delivered meals and chore services. Local agencies should use the "adult cluster" model and other collaborative efforts to help alleviate service-related issues such as affordability, accessibility and eligibility. A multi-agency effort should be undertaken to address the most frequently identified gaps in services in the areas of housing, personal support services, access services, home health care and legal services. An electronic database of all services available in the community, as well as locally developed best practice standards should be put in place at both the state and local level to increase access to service information and to create local best practices. Part of the state agency responsibility should include facilitating an on-going discussion among all service providers to promote dissemination of information and to create an informational management system for tracking clients and services. Best practice standards for program and service development should be explored and agencies should be asked to use the best practice guidelines provided in OSU's report as a starting point in conceptualization and implementation of these services.

19. Recommendation

The state should establish funding for at least one full-time APS worker for each of Ohio's 88 counties. The cost would be approximately \$6.2 million. Maintenance of effort of existing APS funding should be required.

Rationale

As mentioned in previous recommendations, the provision of APS varies widely across Ohio. Due to a lack of funding, many communities struggle to respond to the growing demands of APS cases. The state should provide an adequate base allocation to enable every county, regardless of size and other resources, to adequately assist the elderly in need of APS intervention. Most counties will need to supplement this full-time position just as they do now.

Ohio's Experience

Funding remains a critical problem for APS. Title XX dollars (APS primary funding source) are dwindling and, in the last biennium budget, APS was removed as a separate line item. When APS was a separate line item, the state's APS share of \$2.6 million dollars was folded into the consolidated funding line item resulting in total identity loss as it was blended with other funds for issues with greater visibility. Conversely, many states earmark a portion of Title XX funds, which Ohio has never done. As a result, the perpetuation of the APS system is left to the prerogative of the counties, most of which are tugged in many directions to fulfill other obligations with their declining Title XX and other funds. Additionally, although TANF dollars are available, they cannot be used for APS. Very similar to school funding issues, funding for APS is uneven and heavily dependent on local funding and leadership. Therefore, individuals who are abused or neglected in certain counties cannot obtain services that are provided in other locations. Ohio must assure an adequate base of funding so that at the very least, an acceptable minimum level of access exists across Ohio.

Implementation Strategy

Create a separate line item or earmark funds specifically for APS that preserves the existing \$2.6 million in TANF funds and to provide for the additional request of \$6.2 million in the 2006-2007 biennium budget. These funds will sustain current service levels and provide for the placement of one full-time APS worker in every county. In turn, counties must uphold the current commitment of Title XX funds to APS as maintenance of effort.

20. Recommendation

Add a one-degree penalty enhancement if the victim of a specific crime is an elderly person and define elderly to mean any person 60 years of age or older. The crimes to which the recommended enhancements would apply are:

1. Felonious Assault – ORC §2903.11
2. Aggravated Assault – ORC §2903.12
3. Assault – ORC §2903.13
4. Failing to Provide for a Functionally Impaired Person – ORC §2903.16
5. Aggravated Menacing – ORC §2903.21
6. Menacing by Stalking – ORC §2903.211
7. Menacing – ORC §2903.22
8. Rape – ORC §2907.02
9. Sexual Battery – ORC §2907.03
10. Gross Sexual Imposition – ORC §2907.05
11. Sexual Imposition – ORC §2907.06
12. Telecommunications Fraud – ORC §2913.05
13. Tampering with Records – ORC §2913.42
14. Identity Theft – ORC §2913.49
15. Receiving Stolen Property – ORC §2913.51
16. Domestic Violence – ORC §2919.25

Rationale

The proposed amendments will enhance the statutory rights and remedies for elderly persons who are victims of violent crimes and frauds. Additionally, defining elderly as age 60 years of age or older provides uniformity between the criminal codes and APS statute. The Task Force recommends the penalty enhancements to additional criminal offenses to discourage perpetrators who target elderly victims due to a perceived vulnerability. It is also important to recognize that criminal behavior may have a more severe impact on elderly victims who may not recover as easily from violent crimes and who may not have the means, due to their age, to recover financially from theft or fraud-related crimes.

Ohio's Experience

Currently, the Ohio Revised Code provides enhanced criminal penalties for **only** selected offenses where perpetrators victimize elderly persons resulting in inconsistency and gaps in protections.

Implementation Strategy

Amend the Ohio Revised Code to provide further protection to elderly victims of criminal offenses per these recommendations. See **Appendix F** for statutory language and proposed amendments.

21. Recommendation

To further protect elderly persons from telemarketing fraud crimes, add telecommunications fraud and prohibited telephone solicitations to the designated offenses for which a wiretap or electronic surveillance may be obtained by court order.

Rationale

Statistics indicate that elderly persons are heavily targeted by criminals. It is important to recognize that these crimes may have a more severe impact on elderly victims who may not have the means, due to their age, to recover financially from fraud-related crimes. The addition of these offenses to the wiretap and electronic surveillance statute will provide an additional tool to law enforcement to combat telemarketing fraud.

Ohio's Experience

It is estimated that consumers lose more than \$40 billion per year due to telemarketing fraud. Elderly persons are disproportionately affected by telemarketing fraud as they are often repeatedly victimized and many lose their life savings. Due to the complex and multi-jurisdictional nature of these crimes, the investigation and prosecution can be very challenging. Adding these two crimes to the designated list of offenses for which a wiretap or electronic surveillance may be sought allows law enforcement to utilize a valuable tool for the collection of evidence that can be crucial to the investigation and prosecution of these crimes.

Implementation Strategy

Add telecommunication fraud and prohibited telephone solicitations to the designated offenses for which a wiretap or electronic surveillance may be sought under Ohio Revised Code 2933.51(I). See **Appendix F** for draft statutory amendments.

LIST OF APPENDICES

The following is a list of documents or resources mentioned in this report. They are available as full documents at www.ag.state.oh.us, or by request.

Appendix A – Member List

Appendix B – Ohio I-Team Report

Appendix C – I-Team Memorandum of Understanding Draft

Appendix D – MOU Statutory Language Draft

Appendix E – Ombudsman Language ACF Injunction Draft

Appendix F – EATF Criminal and Civil Statutory Language and Amendments Draft

Appendix G – EATF Interim Report

Appendix H – OSU Adult Protective Services Program Study Report

Appendix I – Letters of Support



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