



## SAN DIEGO COUNTY ELDER AND DEPENDENT ABUSE BLUEPRINT 2018

COORDINATED. CARING. COMMUNITY RESPONSE.

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## HISTORY

In the summer of 2017, San Diego District Attorney Summer Stephan began a formal planning process to coordinate San Diego’s community response to elder abuse. Because of a rise in elder abuse prosecutions, as well as the impending explosion of the elder population, the District Attorney brought together countywide stakeholders on November 3, 2017 for a first-ever “think-tank” of experts, including professionals from all disciplines that serve as touchpoints for elder and dependent adults. Those experts identified gaps and needs in our community, and set goals for the future. District Attorney Stephan then convened a larger Elder and Dependent Abuse Summit on March 1, 2018, where this Blueprint was unveiled and endorsed. For the first time, our county has a formalized written set of goals and guidelines to enable us to utilize best practices as we collectively serve our elders and dependent adults.

## MISSION STATEMENT AND VALUES

This Blueprint commits San Diego County to a coordinated community response to Elder and Dependent Adult Abuse. We are committed to thoughtful, prompt, thorough and effective services to the victims we serve. We will strive to utilize best practices in our fields, as well as to cooperate, collaborate, communicate and train with others dedicated to this mission.

## NEED FOR A COUNTYWIDE BLUEPRINT

The United States Census Bureau reports that by 2050, the world’s population aged 65 and older will increase to almost 1.6 billion people. One in six people will be 65 or older in 2050. In San Diego County, almost 23% of the population is projected to be over age 65 by the year 2050, which is a 10% increase from 2015. The County of San Diego’s Adult Protective Services data is consistent with these predictions, as there has been a 17.1% increase in new cases assigned for investigation compared to fiscal year 2007-2008. In fiscal year 2015-2016, there were a total of 13,755 reports of suspected abuse. San Diego community partners will prepare for this growth and strategize how best to serve our seniors.

*“Our civilization will be judged on how we treat our youngest and our oldest members”*

--Summer Stephan  
San Diego County  
District Attorney



## NECESSARY DEFINITIONS

**Elder:** any person 65 years or older (CA Penal Code section 368(g), Welfare and Institutions Code section 15610.27)

**Dependent Adult:** any person between the ages of 18 and 64 who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights. (PC 368(h), W&I 15610.23(a))

**Caretaker:** any person who has the care, custody, or control of, or who stands in a position of trust with, an elder or dependent adult, whether paid or not. (PC 368(i))

## DISPATCHER RESPONSE

Dispatchers are an integral part of the community response to elder abuse because they are a first touchpoint to the abuse. Dispatchers should continue their education on signs of abuse and receive ongoing training on Alzheimer's and other related dementias.

## PATROL RESPONSE

Responding peace officers play a crucial role in creating successful outcomes for Elder and dependent adult victims. Patrol officers and deputies in San Diego County will strive to do the following when feasible:

- Become educated about various elder and dependent adult abuse, and penal code sections accounting for physical and financial abuse, as well as neglect. The most relevant code sections are contained in **ADDENDUM A**.
- Request Emergency Protective Orders when legally appropriate in order to best protect elder victims.
- Treat elder and dependent adult citizens with dignity and respect.
- Follow interview guidelines in **ADDENDUM B** for interviewing elders and dependent adults.
- Recognize that elder or dependent adults may have difficulty narrating events, appear to be poor historians, or lack short term memory, which adds to their vulnerability.
- Document the scene using the San Diego Countywide Elder and Dependent Adult Abuse Supplemental contained in **ADDENDUM C**.
- Cross-Report to Adult Protective Services (APS) by calling 1-800-510-2020 (from within San Diego County area codes) or 1-800-339-4661 (from area codes outside San Diego County) and follow-up by sending a written report of documented suspected abuse within two working days, or reporting through the Aging and Independence Services Web Portal at [www.aiswebreferral.org](http://www.aiswebreferral.org), which does not require any follow up written report. (W&I 15640(c) and 15658.)
- Obtain a signed medical release from potential victims.
- Interview caregivers separately. In some situations, the caregiver may be the abuser.
- Recognize victim cooperation is not always necessary for prosecution. Each dispatched call or case should be investigated on its own evidentiary merits.
- Consult with a supervising Elder Abuse Deputy District Attorney or Deputy City Attorney to determine whether the case is more than simply "civil" in nature.

- **Physical Abuse/Endangerment Cases:** Document all injuries, obtain statements from each elder or dependent adult and document the demeanor of the elder or dependent adult. Photograph or videotape the suspected crime scene, and document any physical evidence and the general appearance of the residence. Seize any objects used to injure the elder or dependent adult and document any medications present at the scene and any pertinent medical history or conditions. Interview the medical personnel available. Reports: 1) Prepare an initial crime report in all cases of suspected physical abuse or endangerment and 2) Cross report to APS (see section below titled, “cross reporting requirements.”)
- **Financial Abuse:** Determine the identity of the reporting party, any relationship between the reporting party and the elder or dependent adult, and why the reporting party notified law enforcement. Determine the dates of economic loss, how the loss was discovered, and who discovered the loss. Obtain sample signature of the elder or dependent adult. Identify and interview, when feasible, all witnesses who may have relevant information. Interview any caregivers to determine their duties and responsibilities, including any financial agreements or loans provided to a caregiver by the elder/dependent adult. Obtain written consent to request bank records, credit statements, real estate loan documents and other relevant financial information. When feasible, document and collect all accessible financial documents pertaining to the suspected financial abuse.
- **Neglect cases:** Neglect occurs when a caretaker or custodian fails to act with a degree of care that a reasonable person would have used when caring for an elder or dependent adult. Officers should do their best to document all physical evidence and consider videotaping the living conditions.
- **Special Considerations/Circumstances with Domestic Violence involving the Elderly:** On occasion domestic violence offenders may be elderly or extremely infirmed. In some cases it may be possible to establish that an elderly offender is not competent, not aware of their actions and/or was previously diagnosed by a physician or Adult Protective Services (APS) of not being competent to make their own decisions as a result of dementia or a related disorder of cognitive decline. It is important to be aware that some offenders present a significant health risk due to the shock of incarceration and or removal from their normal place of residence as a result of their advanced age or significant medical condition or diagnosis of Alzheimer’s or other related dementia. In addition to investigating/documenting the domestic violence incident as outlined in the San Diego County Law Enforcement Domestic Violence protocol, some or all of these options may be applicable based on the individual set of circumstances as alternatives to arrest/booking:
  - Obtaining an Emergency Protective Order (EPO) and ensuring family members can keep the victim and offender in separate locations
  - Evaluate for 5150 W&I and if feasible/and or appropriate, commit offender to either an LPS designated hospital or CMH
  - Contact/request local or available PERT (Psychiatric Emergency Response Team) team
  - Complete an arrest report indicting the offender was released pursuant to Penal Code section 849(b) or taken into custody and released thereafter to a competent third party who will assure the safety of both the victim and the offender
  - Contact the duty Adult Protective Services/Aging and Independent Services representative (1-800-510-2020) for additional resources to keep the victim safe and separated from the offender if the offender cannot be incarcerated/booked.
  - Cross-Report to APS (see **ADDENDUM G**)

## INVESTIGATION RESPONSE

Follow-up investigations are necessary in many elder abuse cases, as first responders may not be in the best position to gather all existing evidence. Follow-up investigations in San Diego County when feasible should include:

- Determining the victim is safe and whether there is a need for emergency housing.
- Cross-reporting to APS.
- Making contact with the assigned APS social worker, Ombudsman or Department of Justice for the possibility of joint investigation or sharing of information when appropriate and if necessary.
- Obtaining any prior APS referrals if they exist.
- Verifying that the initial investigation by patrol addressed all elements of the reported crime.
- Obtaining and viewing all available evidence, including medical information, photographs, bank, checking and financial records.
- Determining if more evidence should be collected or obtained.
- Follow-up interview of victim as soon as possible, preferably videotaped, and outside the presence of caregiver or others present in the home.
- Attempting to interview the suspect when legally appropriate, preferably videotaped.
- Attempting to make appropriate law enforcement notifications if suspect remains unidentified.
- Taking advantage of other countywide resources if needed, including those listed in **ADDENDUM D**.
- Obtaining a signed medical release from victim if not already received by patrol.
- If victim is conserved, obtaining conservator-signed release, along with paperwork that documents the conservatorship.
- Interviewing the victim's treating physician or other medical professionals that interviewed the victim.
- Conducting follow-up interviews with neighbors, family members, or others that may have information or evidence about the incident.
- Conducting a recorded pretext call if necessary, reasonable, and warranted.
- Executing warrants for electronics that may contain relevant evidence.
- Collecting dispatch 911 recordings for current incident and any past incidents.
- Sharing and preserving body-worn camera evidence.
- Collecting physical or documentary evidence related to the crime.
- Obtaining handwriting samples from the victim and the suspect. Have the suspect sign his/her name, as well as the victim's name.
- Documenting the suspect's access to victim's financial information.

## PROSECUTION RESPONSE

The San Diego City Attorney's Office and the San Diego County District Attorney's Office will dedicate specially trained prosecutors to handle elder abuse cases vertically. Prosecutors are strongly encouraged to do the following when feasible and legally appropriate:

- Become familiar with best-practices in the field of Elder and Dependent Adult Abuse prosecution.
- Participate in outreach to elevate awareness and education in the community about elder and dependent adult abuse.
- File Penal Code section 368 crimes either as misdemeanors or as felonies.
- Request Criminal Protective Orders.
- Oppose case continuances due to the vulnerable nature of elder victims and witnesses when legally appropriate.
- Conduct conditional exams of elder or dependent adult victims in order to preserve their testimony.
- Treat all victims and witnesses in a trauma-informed way with dignity, respect, and care.
- Use experts including handwriting analysts, forensic accountants, wound care experts, civil attorneys, geriatricians, geriatric psychologists, psychiatrists, and deputy medical examiners to provide evidence related to necessary elements of the elder abuse crimes.
- Be familiar with the "San Diego County Prosecutor Elder & Dependent Adult Case Preparation Checklist" attached in **ADDENDUM E**.
- Use a prosecutor-checklist to enhance collection of evidence and have consistency in case preparation such as the one attached in **ADDENDUM E**.
- Make efforts to secure victim restitution as early as possible in the criminal process.
- Elicit victim testimony with full-cross examination as soon as possible after charging, due to *Crawford v. Washington* 6<sup>th</sup> amendment concerns.
- Participate in ongoing training and education in the field of Elder and Dependent Adult Abuse.
- Achieve consistency and uniformity when possible in case issuance, handling, and resolution.

## RESTRAINING ORDERS

Restraining orders are one of the most important public safety tools we have to protect elder and dependent adults. All criminal justice system partners should familiarize themselves with the available restraining order options available in **ADDENDUM F**, obtain restraining orders for victims if appropriate, and enforce restraining orders according to the Penal Code. (Penal Code sections 836(c)(1); 13701; 13710 136.2; 1371(c); 136.2(h)(2).) Criminal Protective Orders in elder or dependent adult cases may be valid for up to 10 years. (Penal Code section 368(l).) Officers shall enforce out of state protective orders or restraining orders that are presented to them if 1) the order appears valid on its face, 2) the order contains both parties' names, and 3) the order has not yet expired. "Out of state orders" include those issued by U.S. Territories, Native Tribes, and military agencies. (Full Faith and Credit Provision of the Violence Against Woman Act, Family Code sections 6400-6409.) This protocol should be read in conjunction with the San Diego County Domestic Violence and Children Exposed to Domestic Violence Law Enforcement Protocol adopted in 2015.

## **PSYCHIATRIC EMERGENCY RESPONSE TEAM (PERT)**

The Psychiatric Emergency Response Team consists of specially trained officers and deputies who are paired with licensed mental health professionals. Together, they respond on-scene to situations involving people who are experiencing a mental related crisis and have come to the attention of law enforcement. The PERT team is a tremendous resource for law enforcement in the response to elders who may have Alzheimer's or other related dementias. PERT teams are encouraged to continue collaboration and cooperation with law enforcement and participate in cross-training with community partners so PERT teams can best support law enforcement and elderly perpetrators/victims.

## **CROSS-REPORTING**

Depending on the location of the abuse, the type of abuse, and whether the suspect is a licensed health practitioner, law enforcement, adult protective services, and the local ombudsman are required to cross-report incidents of abuse, and report the results of their investigation of referrals or reports of abuse to the respective referring or reporting agencies listed in **ADDENDUM G** (W&I 15640).

## **MANDATED REPORTING**

Welfare and Institutions Code sections 15630-15632 mandate that certain individuals must report any abuse or suspected abuse to elders or dependent adults. Mandated reporters shall make a report whenever the mandated reporter:

- In his/her professional capacity or within the scope of his/her employment;
- Has knowledge of or observes abuse or neglect;
- Is told by an elder or dependent of abuse or neglect; or
- Reasonably suspects abuse or neglect. (W&I 15630)

**What happens if a mandated reporter does *not* report?** A mandated reporter who fails to report an incident of known or reasonably suspected elder and dependent abuse or neglect is guilty of a misdemeanor, and can be fined or sentenced to jail time. (W&I 15630(h).)

### **Who is a mandated reporter? (W&I 15630(a).)**

- Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation
- Administrators, supervisors and any licensed staff of a public or private facility that provides care or services for elder or dependent adults
- Elder or dependent adult care custodian
- Health practitioner
- Clergy member
- Employee of the Adult Protective Services agency
- Law enforcement
- All officers and employees of financial institutions

**When and how must a mandated reporter make the report?** Mandated reporters shall report by telephone or the confidential internet reporting tool immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an internet report shall be made within two working days.

**Telephone Call:** Immediately or as soon as practically possible, call Adult Protective Services at **1-800-510-2020** (from within San Diego County area codes) or **1-800-339-4661** (from area codes outside San Diego County)

If abuse occurred in long-term care facility call Long Term Care Ombudsman at **1-800-640-4661**.

**Written or confidential internet report:** Within two working days, fill out form SOC 341 or SOC 342 (financial institutions).

**Online Submissions:** [www.AISWebReferral.org](http://www.AISWebReferral.org) Mandated reporters can register ahead of time and be approved to submit non-emergent reports 24/7 and no paper SOC 341/342 is required with this method.

**Can a mandated reporter be civilly liable for reporting abuse?** No. Mandated reporters shall not be civilly or criminally liable for any report made. (W&I 15634)

**Confidentiality of mandated reporter:** The reports made pursuant to W&I sections 15630, 15630.1, and 15631 shall be confidential and may be disclosed only to persons or agencies who legally are entitled to the information, such as Adult Protective Services, a local law enforcement agency, the office of the District Attorney, the office of the City Attorney, the office of the Public Guardian, the Probate Court, members of multidisciplinary teams who use the information for prevention, identification or treatment of abuse or elderly or dependent persons, and all others listed in W&I 15633.5.

## **OMBUDSMAN REPORTING REQUIREMENTS**

The Long Term Care Ombudsman will ask all victims or authorized representatives if they want law enforcement or the Bureau of Medi-Cal Fraud involved. If the victim or victim's authorized representative consents, the Ombudsman shall cross-report known or suspected criminal activities to local law enforcement or to the Bureau of Medi-Cal Fraud & Elder Abuse as soon as possible and must follow up with a written report within two working days. (W&I 15640(d).) If the Ombudsman's office learns of any instance of neglect occurring in a health care facility that has seriously harmed any patient or reasonably appears to present a serious threat to the health or physical wellbeing of a patient in that facility, it shall immediately report by phone and in writing within two working days to the bureau. If the victim or potential victim of the neglect withholds consent to being identified, the report shall contain circumstantial information about the neglect but shall not identify the victim or potential victim. (W&I 15640(d).)

## **SUSPECTED SEXUAL ABUSE OF AN ELDER OR DEPENDENT ADULT**

When sexual abuse is suspected, efforts should be made by all community partners to treat the elder victim with dignity and care, with the recognition that many victims delay in their disclosure of sexual abuse for reasons including but not limited to fear, shame, embarrassment, and self-doubt. Ideally, repeated interviews should be kept to a minimum, and all criminal justice and community partners involved should do their best to communicate and collaborate with one another in a search for the truth. Victims should be notified that they have the right to a support person of their choosing pursuant to Penal Code sections 679.04 and 264.2. Crime reports and cross-reports should be made pursuant to



the sections in this protocol titled “Cross-Reporting.” Documentation of the physical evidence and crime scene is important, as are any injuries to the victim. Coordination with and dispatch of the Sexual Assault Response Team, according to department policy, should be done as quickly as reasonably possible to ensure any appropriate examination can be conducted with consent of the elder victim, or with consent from the victim’s legal guardian, conservator, or attorney in fact for health care. Exams are activated by calling 760-739-2150 (business hours) or through the 24-hour phone line at 888-211-6347 (holidays, weekends, after business hours). Recorded interviews should be made for suspects, and documentation made of all statements made by suspects. When taking a suspect into custody, law enforcement should follow any department policies regarding collection of evidence or performing a standard rape kit on the suspect.

### **AGING AND INDEPENDENCE SERVICES**

Aging and Independence Services (AIS) provides services to older adults, people with disabilities, and their family members, to help keep clients safely in their homes, promote healthy and vital living, and publicize positive contributions made by older adults and persons with disabilities. AIS operates a call center that provides aging and disability resource information for the community as well as serves as the hotline for reporting elder and dependent adult abuse. AIS commits to continued collaboration and partnership with criminal justice agencies dedicated to serving the elder population and dependent adults.

### **ADULT PROTECTIVE SERVICES**

AIS operates Adult Protective Services, which serves adults 65 and older and dependent adults 18 and older, who are harmed or threatened with harm, to ensure their rights to safety and dignity. APS investigates elder and dependent adult abuse, including cases of neglect and abandonment, as well as physical, sexual and financial abuse. APS commits to partner and collaborate with other criminal justice agencies dedicated to the prevention of and response to elder and dependent adult abuse. APS further commits to involvement with the San Diego Elder and Dependent Adult Death Review Team, which reviews elder and dependent adult deaths in the County of San Diego to determine if system-wide changes or improvements should be made.

### **LONG TERM CARE OMBUDSMAN**

The County of San Diego’s Long Term Care Ombudsman (LTCO) program is a part of AIS. LTCO advocates for residents in long term care facilities, such as nursing homes, as well as investigates abuse in other licensed facilities. An Ombudsman listens to concerns, provides information and assistance when requested, and will investigate and resolve complaints related to care or personal rights. The Long Term Care Ombudsman commits to partner and collaborate with criminal justice agencies dedicated to the prevention of and response to elder and dependent adult abuse.

### **OFFICE OF THE PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN/PUBLIC CONSERVATOR**

Within the Office of the Public Administrator/Public Guardian/Public Conservator, the Public Administrator serves as the administrator of decedent estates and attends to their final affairs, at times involving issues of abuse and neglect of older adults and adults with disabilities. The Public Guardian serves as the legally-appointed conservator for persons found by the Probate Court to be substantially unable to attend to their own care needs and/or effectively manage their assets, particularly where no other person is able and available to reasonably act on their behalf. Frequently, Public Guardian conservatees are frail, residing in skilled nursing facilities, and previously the victims of abuse and/or neglect. The Public Conservator serves as the legally-appointed Lanterman-Petris-Short (LPS)

conservator for persons struggling with grave disability due to a mental illness and therefore acts to secure stabilizing treatment services and evaluate the need for conservatorship re-establishment on an annual basis. The Office of the Public Administrator/Public Guardian/Public Conservator commits to partner and collaborate with other criminal justice agencies dedicated to the prevention of and response to elder and dependent adult abuse.

### **CALIFORNIA DEPARTMENT OF SOCIAL SERVICES, COMMUNITY CARE LICENSING DIVISION, SENIOR CARE PROGRAM OFFICE**

Community Care Licensing (CCL) commits to continue their existing collaboration with the Office of the Attorney General as well as the San Diego District Attorney's Office and San Diego City Attorney's office to best protect elders and dependent adults residing in Assisted Living facilities and community care facilities. CCL will continue to be a valued partner in the assisted living facility coordinated program sponsored by County Supervisor Dianne Jacob and refer suspicious cases to the Attorney General, the District Attorney, or the City Attorney when appropriate.

### **ATTORNEY GENERAL'S OFFICE**

The Attorney General's Bureau of Medi-Cal Fraud and Elder Abuse (AG) serves as a valued community partner in the Assisted Living Facility program sponsored by County Supervisor Dianne Jacob, as well as a partner with the San Diego District Attorney's office sharing jurisdiction to investigate and prosecute elder and dependent adult abuse in other institutional settings, including nursing homes and hospitals. The AG will continue to collaborate with other stakeholders to best protect elders and dependent adults.

### **SUSPICIOUS DEATH/HOMICIDE**

An unexplained or suspicious elder or dependent adult death should be treated as a homicide until a complete investigation including autopsy has been performed. Do not presume that all elder deaths are natural simply because of the age or physical limitations of the deceased.

### **REMOVAL OF FIREARMS FROM THOSE LEGALLY PROHIBITED TO POSSESS THEM**

Law enforcement should be familiar with the laws surrounding firearm relinquishment of those individuals who cannot legally possess them. (Penal Code section 18100 et. seq.) When law enforcement verifies that a restraining order has been issued, the officer shall make reasonable efforts to determine if the restraining order prohibits the possession of firearms and/or requires the relinquishment of firearms. If the order prohibits firearms possession, when feasible and reasonable, the officer will make reasonable efforts to:

- Inquire whether the restrained person possesses firearms (ask the restrained person or the protected person).
- Query through the California Law Enforcement Telecommunication Systems (CLETS) and the Automated Firearms System (AFS) to determine if any firearms are registered to the restrained person.
- Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search. (PC 18250(a).)

## ELDER AND DEPENDENT ADULT DEATH REVIEW TEAM

The County of San Diego Elder Death Review Team meets quarterly to review suspicious elder and dependent adult deaths occurring in San Diego County. The goal of the multidisciplinary team is to identify risk factors associated with these deaths, maintain statistical data, facilitate communication between involved investigative agencies, and identify any system improvements that could have been made surrounding the suspicious death. Information gathered by the Elder Death Review Team and any recommendations made by the team are used to develop education, prevention, and if necessary, prosecution strategies that will lead to improved coordination of services for families and the elder population. This Blueprint serves as a re-commitment by community partners to continue participation and support of this important multidisciplinary team and routinely provide data to the public in a report.

## EMERGENCY MEDICAL TECHNICIANS AND PARAMEDIC FIRST RESPONDERS

First responding Emergency Medical Technicians (EMT), Paramedics (PM) or EMT/PM firefighters play a crucial role in creating successful outcomes for elder and dependent adult victims. First responders in San Diego County strive to do the following when feasible:

- Become educated about physical, financial and neglect elder abuse.
- Treat elder and dependent adult with dignity and respect.
- Request law enforcement response when Elder abuse is suspected by or reported to EMS/Fire personnel.
- Follow applicable guidelines in **ADDENDUM B** when assessing elder and dependent adults for a medical complaint or injuries.
- Recognize that elder or dependent adults may have difficulty narrating events, appear to be poor historians, or lack short term memory, which adds to their vulnerability as potential victims.
- Document the scene and all injuries using electronic patient care record (ePCR).
- Cross report to APS by calling 1-800-510-2020 and follow up by sending a written report of documented suspected abuse within two working days, or complete an AIS Web Referral. (W&I 15640(c).)
- Interview caregivers separately. In some situations, caregiver may be the abuser.
- **Neglect cases:** Neglect occurs when a caretaker or custodian fails to act with a degree of care that a reasonable person would have used when caring for an elder or dependent adult. First responders should do their best to document all physical evidence and consider keeping EKG monitor on for entire incident.

## CONCLUDING COMMITMENT

San Diego Community Partners and Stakeholders have come together to collaborate on this important protocol. This Blueprint signifies our ongoing commitment to a coordinated community response to elders, seniors, and dependent adults so they are served with dignity, compassion, and the highest quality of care.

**ADDENDUM A: Relevant Penal Code sections: Elder and Dependent Adult Abuse**

Acquiring Access Cards Without Consent	484e
Battery on an Elder	243.25
Caretaker Defined	368(i)
Dependent Adult Defined	368(h)
Dissuading a Witness from Contacting the Police	136.1
Domestic Violence	273.5
Elder Defined	368(g)
Elder Abuse False Imprisonment	368(f)
Elder Abuse Physical Felony	368(b)(1)
Elder Abuse Physical Misdemeanor	368(c)
Elder Abuse Financial , Caretaker Felony > \$950	368(e)
Elder Abuse Financial, Non-Caretaker Felony > \$950	368(d)
Forgery	470
Forging Access Cards	484f
Grand Theft Felony > \$400	487
Fraud or Embezzlement: Two or more related felonies	186.11(a)
Loss exceeds \$100,000	186.11(a)(3)
Loss exceeds \$500,000	186.11(a)(2)

**Sentencing Enhancements**

Physical Abuse Causing GBI	368(b)(2)
Victim under 70 years old + 3 years	368(b)(2)(A)
Victim 70 years or older + 5 years	368(b)(2)(B)
Physical Abuse Causing Death	368(b)(3)
Victim under 70 years old + 5 years	368(b)(3)(A)
Victim 70 years or older + 7 years	368(b)(3)(B)
Committing any felony & Causing GBI + 3 years	12022.7
Repeat Offenders, Victim is 65 or Over	
Generally + 1 year	667.9
Anal or Genital Penetration with Foreign Object + 2 years	667.10

### **Special Concerns When Interviewing Older Victims**

Interviewing older victims requires special care and patience. Simple measures such as treating the person with respect and asking permission to enter the home or to be seated can help the victim to feel less anxious. Other strategies include:

- Speak slowly and clearly, and be patient in waiting for a response.
- Keep your weapon out of sight—a weapon can be frightening.
- Address the victim by name, but do not use first names as this is considered disrespectful by many elderly persons. You might ask, “Is it okay if I call you Mrs. Smith?”
- Tell the victim you are there to help.
- If the person is having difficulty remembering when an event occurred, offer memory cues like “At the time of the event, what television program were you watching?”
- For hearing impaired persons, eliminate as much background noise as possible and use visual cues. Speak directly to the victim, looking at them when you speak.
- Allow the victim to describe the incident in his or her own words.
- Be patient and reassuring. Some older people, particularly, those in crisis, may need time to collect their thoughts and may need to take frequent breaks.
- Acknowledge the victim's anxiety and try to discern its cause. For example, you may say, “You seem anxious. Is there anything in particular you are worried about? Are you concerned that your relative will find out that you have talked with me?”
- Keep questions short and simple.
- Ask open-ended questions that encourage further discussion.
- Even if the victim appears to be somewhat confused, do not discount the information.
- Make every effort to obtain the fullest possible response before relying on information from others.
- Do not discount a complaint because the victim is unwilling to cooperate.
- Assess the likelihood of retaliation. If a threat is present, arrange for protection.
- Determine whom the victim first told about the abuse/neglect/fraud.
- Show the victim records or other documents that suggest abuse. Record his or her response to each one that is in dispute.
- Conclude the interview in such a fashion that the victim feels free to contact the investigator again.
- Ensure that the victim is capable and has the means for follow-up contact. If not, take measures to facilitate follow-up with the victim.
- Determine whether the witnesses are likely to be intimidated, made to feel guilty, or threatened with reprisal for providing testimony.

## **Victims with Dementia or Diminished Capacity**

When interviewed patiently, persons with dementia, Alzheimer's disease or other illnesses that diminished capacity, can often provide useful information. A sensitive approach to interviewing the person with diminished capacity may yield valuable results. Following are some strategies that may make the police interview more productive:

- Keep the interview area quiet and as free as possible from environmental distractions (e.g. TV or open window with traffic noise).
- If possible, conduct the interview in the morning, to avoid the effects of "sundowning."
- Begin the interview with orienting information, such as the purpose of the interview and what you would like to accomplish.
- Offer a few words of reassurance.
- Relax and be yourself. Your degree of calmness is quickly sensed, just as any anxiety will be sensed.
- Acknowledge the person's feelings. It shows your concern and that you are trying to understand his or her point of view.
- Speak slowly and in a soothing tone, without infantilizing the individual.
- Give the person with diminished capacity ample time to respond.
- Repeat questions as needed, using simple and concrete words.
- Remember that what has been asked may take longer to be understood.
- Give simple directions, one step at a time.
- Distraction or redirection may help to calm and refocus an individual who is upset.
- Document non-verbal reactions. For example, if the individual becomes agitated, frightened, or mute when asked about a certain person or situation, there may be a reason.

For further suggestions see *Interviewing Techniques for Victims of Elder Abuse Who May Suffer From Alzheimer's disease or Related Dementia* ©2004 by Sue Beerman and Arlene Markarian.

## **Cultural Issues**

Our community is diverse. Cultural factors may inhibit the reporting of elder abuse crimes or cooperation with the police in some cases. It is important to have an understanding of the cultural factors that might influence the victim or the victim's family. Cultural norms of perseverance, silent suffering and quiet endurance are valued in many communities. These qualities are also associated with victimization. Consequently, elders may deny or minimize problems, or refuse to cooperate with authorities.

Some cultures place great value on family interdependence and multi-generational households. They may fear the social consequences of bringing shame to the family. Some cultures believe that maintaining community or family honor is more important than the interests of the individuals and that the authorities should not be involved in what they consider "family matters."

Laws and customs in some countries forbid intervention in family affairs without the family's permission. Elders who are immigrants may also have fears in relation to police based on experiences in their country of origin. They may not know they have rights in this country regardless of their immigrant status. They may fear deportation if the police get involved. Empathy and reassurance can help to reduce these fears.

Good cross-cultural communication begins with respect. As you would with any older victim/witness, begin by addressing a person formally, using his or her last name. Cultural beliefs often emerge during interviews. While a gentle touch on the shoulder may be comforting to some elderly victims, in some cultures this is considered an intrusion or offensive.

In some cultures it is considered disrespectful to make eye contact with an authority figure such as a police officer, while in others it is rude not to make eye contact. Some victims may be reluctant to reveal injuries that are covered with clothing due to cultural customs of modesty or religious beliefs. Be careful not to interpret an unwillingness to show injuries as an indication that there are no injuries.

While culture does play a significant role in shaping a person's behavior, it should not be seen as an automatic predictor of how a given victim will respond. Each case is unique and should be assessed keeping relevant aspects of culture in mind.

### **Language**

Many elders who live in insular ethnic communities do not speak English. In these situations it is important to use an impartial interpreter. Avoid using a family member, friend or neighbor to communicate with the victim or with the suspected offender. This is likely to bias the translation. The interpreter may be involved in the abusive situation or may give an inaccurate translation due to their personal bias. The victim may also be reluctant to speak honestly in front of an acquaintance or family member.

### **Fears the Victim May Have**

Victims may fear retribution, such as isolation or emotion/verbal abuse. The abuser may be an adult child or grandchild. It may be very difficult for a parent to testify against a child. The abuse may cast doubt on their ability to live alone and they will be placed in a nursing home. The abuser may be a spouse of many years.

### **Suggested Interview Questions: Financial Abuse**

#### *Background Information*

- What is your name?
- Do you have any close relatives? (Identify nature of relationship, names, addresses, phone numbers of any relatives)
- Who are some of your close friends? (Identify names, addresses, phone numbers and length and nature of relationship)
- Are you close to any of your neighbors? (Identify names and addresses)
- Does anyone visit you on a regular basis?
- When is the last time you saw a doctor? Who is your doctor? Who took you to your last doctor's appointment?
- Have you been diagnosed with any medical condition?

### *Housing Questions*

- Where do you live?
- Do you own your home? How long? Who is on the title of the house?
- How long have you lived in your current residence?
- Does anyone live with you? (Identify names and relationships) Do they pay rent?
- Do they provide any services for you in exchange for staying there?

### *Caretaker*

- Do you have a caretaker?
- How long has caretaker been involved with your care?
- Does caretaker get paid? If yes, how much?
- Who takes care of bills or finances?
- Who signs the checks?
- Do you drive? (Who takes elder to appointments, shopping, etc.)
- When did you stop driving?
- Does anyone other than the suspect provide any services for you? If so, describe.

### *General Finance Questions*

- Who handles your finances?
- Who writes the checks?
- Who pays the bills?
- Who does your taxes?
- What is your monthly income? (Amount and sources of income)
- What are your monthly expenses? (Describe some of them)
- Have you ever given anyone permission to sign your name? Use your credit card?
- Place their name on any of your banking accounts?
- Have you signed any documents lately? If so, what were they?
- What are the balances on your bank accounts? Credit card accounts?
- Do you have investment accounts? With whom?
- Do you have a will or trust? Does anyone have a valid Power of Attorney for you?
- Do you have an attorney? (Name and phone number, if available)

### *Suspect Related Questions*

- How long have you known the suspect? How did you meet the suspect?
- Does the suspect provide any services for you? If so, describe. Who hired the suspect?
- How is the suspect compensated for any services provided?
- Did you ever give the suspect any loans or gifts (monetary or otherwise)?
- Does the suspect owe you any money?
- Do you owe the suspect any money?
- Is there anyone else who can do the things the suspect currently does for you?



### *Case Specific Questions*

- Do you recognize these documents?
- Do you recognize these signatures?
- Why did you agree to the transaction(s)?
- Who spoke to you before you agreed to the transactions(s)?
- What was your understanding of the agreement?

## **Interview Suggestions for Neglect or Physical Abuse**

### *Background information*

- Name
- Do you have close relatives? Who are some of your closest friends?
- Are you close to any of your neighbors?
- Does anyone visit you on a regular basis?
- Do you get meals brought in with “Meals on Wheels” or another agency?

### *Housing*

- Where do you live?
- Do you own your home? Who has title to the house?
- How long have you lived there? Does anyone live with you? Do they pay rent?
- Does anyone provide you any services in exchange for living with you (i.e. take you to appointments, clean your house, etc.)

### *Caretaker*

- Do you have a caretaker? For how long have you had this caretaker?
- Does the caretaker get paid? If yes, how much?
- Who takes care of bills or finances?
- Who signs the checks?
- Do you drive? When did you stop driving?

### *Financial*

- Who handles your finances?
- Who writes the checks?
- Who pays the bills?
- Who does your taxes?
- Do you have a will or trust? Does anyone have a valid Power of Attorney for you?
- Do you have an attorney?
- How long have you known the suspect?
- How did you meet the suspect?
- Who hired the suspect?
- Does the suspect provide any services to you?

- How is the suspect paid for any services provided?
- Did you ever give the suspect any loans or gifts?
- Does the suspect owe you any money?
- Do you owe the suspect any money?
- Who is generally responsible for taking care of you?
- How long have they been taking care of you?
- When was the last time you saw a doctor?
- Will you sign a medical release form? (If yes, have elder/dependent adult sign the form, or if Power of Attorney, ask that individual to sign)

#### *Physical Abuse*

- Did you have any physical injuries before this incident?
- Were those injuries reported? If not, why not?
- What happened to you during the current incident?
- Who did this to you?
- When did this happen?
- Did the person tell you why he/she did it to you? What specifically did the suspect say?
- Did you see a doctor regarding the injury?
- What doctor?
- Obtain consent for medical release from victim or person with Power of Attorney over victim.

#### **Techniques for Interviewing Suspects in Elder or Dependent Adult Cases**

- Advise the suspect of his or her Miranda rights if conducting a custodial interrogation.
- Encourage the suspect to relate the incident in her or his own words.
- Note the suspect's attitude or demeanor during the interview.
- Determine the relationship between the suspect, victim, and witnesses.
- Look for behavioral indicators of abuse.
- Note statements that are inconsistent with other findings and evidence.
- If handwriting is an issue, collect handwriting samples (financial crimes).
- Show the disputed documents to the suspect one at a time, and then record his or her response to each one.
- If the suspect admits to abuse, ask him or her to specify precisely what he or she did and record it.
- Do not communicate hostility or disbelief.

## **Suggested Questions for Caretakers Who May Also Be Suspects:**

### *Background Questions*

- Name
- Address
- DL Number
- Contact Information

### *Relationship with the Victim*

- How do you know the victim? For how long?
- Who lives with the victim?
- Do you live here? If yes, for how long?
- Do you pay rent or do you receive room and board in exchange for services you perform for the victim?
- Are there any other relatives living in the area? Do they visit and how often?

### *Current Medical Care*

- Is the victim currently under a doctor's care?
- What is the doctor's Name?
- When was the last time the victim saw a doctor?
- Did you take the victim to the doctor? If not, who did?

### *Medical History*

- Is there any recent or past history of accidents, illness, disease, or mental health issues regarding your relative?
- Explain details and dates of any medical diagnosis.
- Does the victim take any medications? If yes, how often and how much?
- Where is the medication stored?
- Who gives the victim their medication(s)?
- Describe the victim current mental state. Is he/she slow, forgetful, trusting, easily influenced?

### *Legal Issues*

- Is the elder conserved? If so, when and by who?
- Does anyone have valid Power of Attorney over the elder?
- Does the elder have a will or trust? If so, who are the beneficiaries and have there been any recent changes made to it? Who is the trustee? Successor trustee?
- Who is the elder's attorney? Name and contact information.
- Are you the victim's conservator? If so, since when?
- Do you have a valid Power of Attorney over the victim? If so, since when?

### *Background on Becoming the Caretaker*

- How did you get to be the caretaker?
- Who hired you?
- What was your training for this job?
- How long have you been the caretaker?
- How are you coping with the caregiving responsibilities?

### *Current Duties*

- Are you the only caretaker?
- Who, if anyone, assists you in caring for the victim? What is his/her name? What does he/she do specifically?
- What are your duties as it relates to:
  - Medication
  - Toilet assistance
  - Cooking/cleaning services
  - Shopping
  - Paying bills

### *Elder/Dependent Adult's Financial Situation*

- What is the elder's monthly income and from what sources? (Social Security, pension).
- What are the elder's monthly expenditures?
- Is the elder in debt or at financial risk?
- Where does your relative bank and is anyone joint on the accounts?
- Does anyone else have access to the elder's bank accounts, ATM, credit cards, etc. and why?
- What are the current balances on the victim's banking & credit card accounts?

### *Suspect's Involvement with Victim's Finances*

- What are you paid? How are you paid? How often are you paid?
- Does the victim owe you any money? If so, how much and what for?
- Who is responsible for the victim's finances/bills? Who pays the bills?
- If you pay the bills, how long have you been doing so? Does anyone else help?
- Do you make any deposits of your own money into the elder's account? If so, why, how much and how often?
- Do you have access to the victim's savings or checking accounts? Money market accounts? Investments? Is your name on any of these accounts? If so, why?
- Do you have access to the victim's credit cards? Have you ever had permission to use the victim's credit card?
- Have you or someone else withdrawn money from any account or financial institution on behalf of the elder? If so, why, what for, did you have permission and was it paid back?

- Have you or the elder signed any documents recently? (i.e. loans, deeds, promissory notes, Power of Attorney, etc.)
- Have you written any checks for the elder and had them sign the check?
- Have you ever had permission to sign the victim's name?
- Who writes the checks (to pay the victim's expenses)?
- Who, if anyone, do you talk to before making a financial decision on behalf of the victim?
- Has the victim given you any gifts, money or loans?
- Do you have any promissory notes showing loans to you from the victim or from the victim to you?

*Suspect's Current Financial Situation*

- Are you employed anywhere else? Where and how long?
- Do you have any bank accounts? How many and where?
- Is the victim joint on any of your accounts?
- Have you received an inheritance recently or won any money?
- Have you or anyone else taken a trip or vacation with the elder or at the elder's expense? If so, who, when, where, and how much did it cost?
- What are your sources of income? What are the total amounts per month? Any recent inheritances, unusual winnings?

*Ask Specific Questions about the Current Case*

- Obtain as many details as possible.
- If appropriate, show the suspect any documents to verify signatures.

*Concluding Questions:*

- Have you ever been arrested? If so, what for and are you currently on probation or parole? If so, name of probation officer/parole agent.
- If needed, what is the best way to contact you in the future?
- Is there anything else you think I should know or want to say about this case?

## **Suggested Questions for Suspects Who May be Contractors, Landscapers, Handyman, etc.**

### *Background Questions*

- Name
- Address
- DL Number
- Contact Information

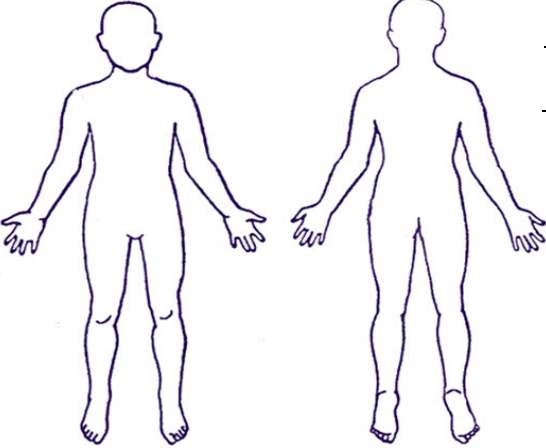
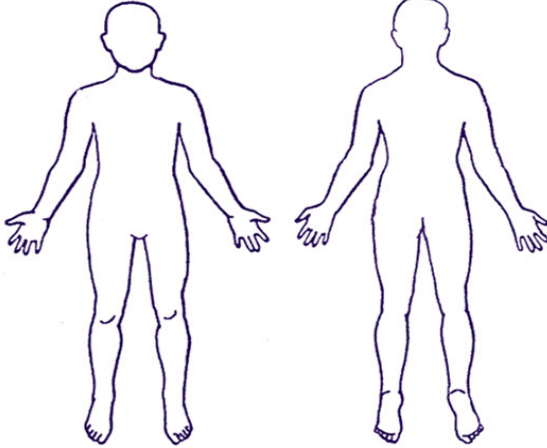
### *Background on Suspect's Business*

- How long have you been in business? Are you a sole proprietor or incorporated? Number of employees?
- Have you entered into any type of verbal or written contract for services or home repairs with the elder? If so, describe the dates, necessity of work and pay received. Obtain copies of contract or receipts.
- Do you have a valid state contractor's license for the work performed? If so, contractor's license number and bonding company.
- Has any disciplinary action ever been taken against your license? If so, when, where and what for?
- Do you maintain separate financial accounts for your business? (i.e. a business checking or savings accounts versus personal banking accounts)
- Do you maintain a business office or work from your home? Obtain a business card and/or document all contact information.
- Is your business the only source of income? If not, what is your secondary source of income and how much does that source contribute to your finances?

### *Information on the Current Case*

- How were you contacted for the job? (i.e. through neighborhood solicitation, phone book, word of mouth, or friend)
- Was a building permit obtained prior to beginning the job? Obtain copies.
- Did you sub-contract work out to another party or person? If so, is that person licensed, was the work completed and did you pay them?

**ADDENDUM C: SAN DIEGO COUNTYWIDE  
ELDER AND DEPENDENT ADULT ABUSE SUPPLEMENTAL**

<b>CASE #:</b>		<b>Reporting Officer &amp; ID#:</b>	
<b>PRIMARY VICTIM</b>		<b>RELATIONSHIP OF SUSPECT TO VICTIM</b>	
<input type="checkbox"/> Elder (65 years and older) <input type="checkbox"/> Dependent adult (18-64 years) <i>*Dependent adult has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.</i>		<i>*If Domestic Violence, use DV Supplemental form</i> <input type="checkbox"/> Adult child of victim <input type="checkbox"/> Minor child of victim <input type="checkbox"/> Other family member <input type="checkbox"/> Caregiver/care custodian (not related by blood or family) <input type="checkbox"/> Friend <input type="checkbox"/> Acquaintance <input type="checkbox"/> Stranger <input type="checkbox"/> Self <input type="checkbox"/> Other	
<b>VICTIM</b>		<b>SUSPECT</b>	
<b>VICTIM NAME (Last, First, Middle)</b>		<b>SUSPECT NAME (Last, First, Middle)</b>	
<b>DATE OF BIRTH:</b>	<b>M</b> <input type="checkbox"/> <b>F</b> <input type="checkbox"/>	<b>DATE OF BIRTH:</b>	<b>M</b> <input type="checkbox"/> <b>F</b> <input type="checkbox"/>
<b>EMOTIONAL Demeanor UPON ARRIVAL</b>		<b>EMOTIONAL Demeanor UPON ARRIVAL</b>	
<input type="checkbox"/> Upset <input type="checkbox"/> Crying <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Angry <input type="checkbox"/> Nervous <input type="checkbox"/> Not at Scene <input type="checkbox"/> Flat Affect		<input type="checkbox"/> Upset <input type="checkbox"/> Crying <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Angry <input type="checkbox"/> Nervous <input type="checkbox"/> Not at Scene <input type="checkbox"/> Flat Affect	
<b>Reported Types of Abuse (Check all that apply)</b>			
Physical: <input type="checkbox"/> Assault <input type="checkbox"/> Battery <input type="checkbox"/> Constraint <input type="checkbox"/> Sexual <input type="checkbox"/> Restraint <input type="checkbox"/> Chemical <input type="checkbox"/> Medication (over or under dosing) <input type="checkbox"/> Other Neglect: <input type="checkbox"/> General: Malnutrition/clothing/shelter <input type="checkbox"/> Isolation <input type="checkbox"/> Abandonment <input type="checkbox"/> Medical <input type="checkbox"/> Sexual <input type="checkbox"/> Fiduciary <input type="checkbox"/> Other Financial: <input type="checkbox"/> Theft <input type="checkbox"/> Misuse of funds or property <input type="checkbox"/> Extortion <input type="checkbox"/> Duress <input type="checkbox"/> Fraud Mental Suffering: <input type="checkbox"/> Verbal assaults <input type="checkbox"/> Threats <input type="checkbox"/> Fear <input type="checkbox"/> Unaddressed mental health challenges <input type="checkbox"/> Unaddressed cognitive challenges/crisis Self-Neglect: <input type="checkbox"/> General: Malnutrition/clothing/shelter <input type="checkbox"/> Unmet medical needs <input type="checkbox"/> Unpaid bills <input type="checkbox"/> Unkempt <input type="checkbox"/> Suicidal <input type="checkbox"/> Unaddressed mental health challenges <input type="checkbox"/> Unaddressed cognitive challenges/crisis			
<b>INJURIES</b>		<b>INJURIES</b>	
<input type="checkbox"/> Report of pain <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Abrasion(s) <input type="checkbox"/> Head injury <input type="checkbox"/> Laceration(s) <input type="checkbox"/> Possible broken bones <input type="checkbox"/> Soreness <input type="checkbox"/> Other: _____ Explain: _____ <input type="checkbox"/> No visible or reported injuries <input type="checkbox"/> Draw location of injuries in diagram below		<input type="checkbox"/> Report of pain <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Abrasion(s) <input type="checkbox"/> Head injury <input type="checkbox"/> Laceration(s) <input type="checkbox"/> Possible broken bones <input type="checkbox"/> Soreness <input type="checkbox"/> Other: _____ Explain: _____ <input type="checkbox"/> No visible or reported injuries <input type="checkbox"/> Draw location of injuries in diagram below	
			
<b>HT:</b> _____ <b>WT:</b> _____		<b>HT:</b> _____ <b>WT:</b> _____	

<p style="text-align: center;"><b>MEDICAL</b></p> <p><input type="checkbox"/> Death   <input type="checkbox"/> First Aid Provided</p> <p>Medications and chronic conditions or current diagnoses: _____</p> <p>List any limitations on activities of daily living: _____</p> <p>Medical treatment: <input type="checkbox"/> None   <input type="checkbox"/> Declined Medical Aid   <input type="checkbox"/> Will Seek Own</p> <p>Does Victim have Medical Insurance?   <input type="checkbox"/> Yes   <input type="checkbox"/> No</p> <p><input type="checkbox"/> Paramedic Response   <input type="checkbox"/> Transported to Hospital</p> <p><input type="checkbox"/> Hospital /Medic Unit: _____</p> <p><input type="checkbox"/> Medical Release Signed by Victim?</p>	<p style="text-align: center;"><b>MEDICAL</b></p> <p><input type="checkbox"/> Death   <input type="checkbox"/> First Aid Provided</p> <p>Medications and chronic conditions or current diagnoses: _____</p> <p>List any limitations on activities of daily living: _____</p> <p>Medical treatment: <input type="checkbox"/> None   <input type="checkbox"/> Declined Medical Aid   <input type="checkbox"/> Will Seek Own</p> <p>Does Suspect have Medical Insurance?   <input type="checkbox"/> Yes   <input type="checkbox"/> No</p> <p><input type="checkbox"/> Paramedic Response   <input type="checkbox"/> Transported to Hospital</p> <p><input type="checkbox"/> Hospital /Medic Unit: _____</p> <p><input type="checkbox"/> Medical Release Signed by Suspect?</p>
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<p style="text-align: center;"><b>SUBSTANCE ABUSE</b></p> <p>Possible influence of:</p> <p><input type="checkbox"/> Alcohol   <input type="checkbox"/> Drugs   <input type="checkbox"/> Both   <input type="checkbox"/> None</p> <p><input type="checkbox"/> Symptoms observed: _____</p> <p>History of Substance Abuse by Victim?   <input type="checkbox"/> Yes   <input type="checkbox"/> No</p> <p>Sample Taken By: _____</p> <p>Requested Preservation (Sample Taken at Hospital): <input type="checkbox"/></p>	<p style="text-align: center;"><b>SUBSTANCE ABUSE</b></p> <p>Possible influence of:</p> <p><input type="checkbox"/> Alcohol   <input type="checkbox"/> Drugs   <input type="checkbox"/> Both   <input type="checkbox"/> None</p> <p><input type="checkbox"/> Symptoms observed: _____</p> <p>History of Substance Abuse by Suspect?   <input type="checkbox"/> Yes   <input type="checkbox"/> No</p> <p>Sample Taken By: _____</p> <p>Requested Preservation (Sample Taken at Hospital): <input type="checkbox"/></p>
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**STRANGULATION**

Did the suspect strangle or "choke" the victim    Yes    No   *If yes, complete the Countywide Strangulation Documentation Form.*

**FIREARMS/DEADLY WEAPONS OWNED/USED/IMPOUNDED**

Firearm(s)/deadly weapon(s) used during the incident?    Yes    No   List/describe weapon(s) used: \_\_\_\_\_

Does suspect have access to firearms?    Yes    No   List/describe: \_\_\_\_\_

Firearm(s)/deadly weapon(s) impounded per PC 18250?    Yes    No   List/describe weapon(s) impounded: \_\_\_\_\_

**HISTORY OF ABUSE**

Prior history of abuse/neglect from this suspect?    Yes    No   Was this prior abuse/neglect documented by law enforcement?    Yes    No

Approximate number of prior incidents: \_\_\_\_\_   Case Number(s): \_\_\_\_\_

Investigating Agency(s): \_\_\_\_\_

**WITNESSES**

Witnesses present during incident?    Yes    No   All witness statements taken?    Yes    No

Witness info listed in crime report?    Yes    No   *Include witness statements in Report*

**CROSS REPORT TO ADULT PROTECTIVE SERVICES**

Peace officers are mandated per 15630 (b)(1) W&I to report suspected elder and dependent abuse and neglect

Cross report to APS filed?    Yes    No   Adult Protective Services: 800-510-2020

**EVIDENCE COLLECTED**

Physical Evidence Collected (e.g. torn clothing, broken objects)?    Yes    No

Location Collected:    Crime Scene    Hospital    Other: \_\_\_\_\_

Photographs Taken?    Victim    Suspect   Photographs Of:    Crime Scene    Physical Evidence    Witness(es)    Other: \_\_\_\_\_

**RESTRAINING ORDERS**

TRO/RO on record?    Yes    No   If Yes, Issuing court: \_\_\_\_\_    TRO/RO No. \_\_\_\_\_

Emergency Protective Order Issued?    Yes    No

**VICTIM RESOURCES PROVIDED**

Incident or Crime Case Number    Victim Advised of Right to Support Person    If Regional Center client, did you advise the victim to contact their Case Manager or offer to contact Case Manager on victim's behalf?

Elder & Dependent Adult Abuse Resource Guide    Victim Advised of Right to EPO





## **ADDENDUM D: San Diego County Resource Guide ELDER & DEPENDENT ADULT ABUSE AND NEGLECT**

### **Adult Protective Services (800) 510-2020**

Adult Protective Services (APS) investigates reports of abuse and neglect. Trained professionals assist elder and dependent adults who are harmed or threatened with harm. This may include physical, sexual, and financial abuse, mental suffering, neglect or abandonment by another, and self-neglect. Anyone can report elder and dependent adult abuse.

### **Law Enforcement**

For emergencies, call 911. Non-emergency numbers:

Carlsbad Police Department	(760) 931-2197
Chula Vista Police Department	(619) 691-5151
Coronado Police Department	(619) 522-7350
El Cajon Police Department	(619) 579-3311
Escondido Police Department	(760) 839-4722
La Mesa Police Department	(619) 667-1400
Oceanside Police Department	(760) 435-4900
National City Police Department	(619) 336-4411
San Diego Police Department	(619) 531-2000, (858) 484-3154
San Diego Sheriff's Department	(858) 565-5200

Your local Sheriff and police and departments investigate crimes against elders and dependent adults based on the jurisdiction where the incident occurred.

According to California State Penal Code 368 P.C., the State of California considers those persons age 65 and older to be elders. Persons 18-64 years old who have physical and/or mental limitations that restrict their ability to carry out normal activities or to protect their rights are considered dependent adults.

Information on Elder Abuse Crimes: [www.sdsheiff.net/elder](http://www.sdsheiff.net/elder) and [www.sdcda.org](http://www.sdcda.org)

### **San Diego County District Attorney's Office & San Diego City Attorney's Office**

These offices are committed to the successful prosecution of those committing crimes against elders and dependent adults.

Victim advocates are also available to assist with safety planning, support, referrals, court accompaniment and processing of Victim Compensation and restitution applications.

**San Diego City Attorney's Office, Victim Services Coordinators:** (619) 236-6220

**San Diego County District Attorney's Office, Victim Assistance Program:**

Central (619) 531-4041, East (619) 441-4538, South (619) 498-5650, North (760) 806-4079

## ORDERING POLICE REPORT(S)

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Victims have a right to one free copy of their police report. Contact the responding law enforcement agency in the jurisdiction in which the incident occurred. Requests for reports can be made to most jurisdictions through the mail or in-person. The following information is necessary to request a report copy: name of the parties involved, date and location of incident, and the report number if available. Bring identification if you go in-person to pick up your report.

## RESTRAINING ORDERS

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Victims of Elder and Dependent Adult Abuse may file for a civil restraining order at no cost.

There are free clinics available to assist you in the application process: [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) and select the "Civil" tab and then select "Harassment Restraining Order."

Arrive early. Be prepared to spend a minimum of one-half of a day to a full day at the court to obtain your restraining order. Arrive a minimum of two hours before the clinic closes.

Things to bring with you when you complete your paperwork, if available: Address of the person you would like restrained; date of birth for the person you would like restrained; physical description of the person you would like restrained; photographs of any injuries (if applicable); and a copy of the police report(s) if any.

## OTHER LOCAL RESOURCES

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**Senior Mental Health Team**  
**(800) 510-2020**

Assesses and initiates appropriate actions for older adults age 60+ with mental health issues. Currently serving East County, Central, and North Coastal areas.

**Long Term Care Ombudsman**  
**(800) 640-4661**

Investigates reports of abuse in nursing homes and residential care facilities, and advocates for residents' rights.

**Public Guardian**  
**(858) 694-3500**

May be appointed conservator by the Probate Court when it is determined that someone is unable to care for himself/herself physically and/or financially and no family members or alternates are available.

**Public Administrator**  
**(858) 694-3500**

Performs estate administration for people who have died with no family member or other person to handle their affairs.

**Public Conservator**  
**(858) 694-3500**

A mental health conservator can be court ordered for people who are gravely disabled as a result of a mental disorder.

**Meals on Wheels**  
**(800) 573-6467**

Nutritious meals delivered to homes by caring volunteers. [www.meals-on-wheels.org](http://www.meals-on-wheels.org)

**Methamphetamine Hotline**  
**(877) 662-6384**

24 hour hotline for treatment information and to report criminal activity related to meth use in San Diego County.

## NATIONAL WEBSITES

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Elder Justice Coalition

[www.elderjusticecoalition.com](http://www.elderjusticecoalition.com)

National Adult Protective Services Association

[www.napsa-now.org](http://www.napsa-now.org)

National Center on Elder Abuse

<https://ncea.acl.gov>

National Clearinghouse on Abuse in Later Life

[www.ncall.us](http://www.ncall.us)

National Committee for the Prevention of Elder Abuse

[www.preventelderabuse.org](http://www.preventelderabuse.org)

National Organization for Victim Assistance

[www.trynova.org](http://www.trynova.org)

U.S. Department of Health and Human Services,  
Administration on Aging

[www.hhs.gov/aging/index.html](http://www.hhs.gov/aging/index.html)

## ADDENDUM E: SAN DIEGO COUNTY PROSECUTOR ELDER & DEPENDENT ADULT CASE PREPARATION CHECKLIST

Victim Name \_\_\_\_\_ Case Number \_\_\_\_\_  
Prosecutor \_\_\_\_\_ Date: \_\_\_\_\_

### Interviewing Strategies:

- ❖ **Privacy:** Speak in private, away from family members and suspects, especially if unsure whether family members will be witnesses and/or defendants.
- ❖ **Advocate:** Consider having an advocate present.
- ❖ **Remove distractions:** Turn off cell phones and find a quiet room.
- ❖ **Make the meeting accessible:** Meet with older persons at their home, whenever possible.
- ❖ **Address any needs, questions or concerns that the victim may have:** Prior to starting the interview, including physical and medical ones. If unable to address these needs, connect him/her with a professional who can assist.
- ❖ **Develop rapport:** Develop a relationship and him/her feel comfortable. A few ways are to ask about his/her family, life, career or other interests. Avoid being patronizing or fraternizing (e.g. using first name without permission, raising your voice, physical contact, talking down, baby talk).
- ❖ **Be Patient:** Ask the victim questions one at a time and allow him/her time to respond. Older adults may need more time to process the questions and their responses, so be patient.

### Preparing for Court:

- ❖ **Identify Needs and Arrange Accommodations:** Inquire with the victim about needs pertaining to mobility, language and communication (e.g. translators, interpreters, assistive devices), oxygen, medication, nutrition, hydration, and other medical treatment. Incorporate accommodations into all parts of the criminal justice process including court-room appearances and pre-trial meetings.
- ❖ **Transportation:** Work with the victim and Victim Witness staff to determine travel arrangements and transportation needs for attending meetings and hearings. Ensure that someone other than the suspect or the suspect's allies provide the transportation.
- ❖ **Tour the Courtroom:** Arrange a tour in advance for the victim through Victim Witness and court staff. Review where the victim will sit and the court process.
- ❖ **Waiting Room:** Identify a comfortable place, away from the court room, for the victim wait,
- ❖ **Scheduling:** Consider the victims medical and other special needs when scheduling. Select the times for court appearances and testimony of the victim at times/days that work best for him/her. One victim is present, avoid delays.

Evidence Collection	✓ Complete?
Psychological/psychiatric evaluation of victim *If capacity, consent or undue influence may be an issue	
Victim deposition or testimony with full-cross examination, as soon as possible after charging (Crawford)	
Videotape the victim at the early stage of the investigation to include:	
Victim's perception of time, place or place	
Facts: Consent	
Facts: Perpetrator's identity	
Facts: Review docs/evidence. Ask victim to sign his/her name in the video	
Facts: Impact of crime. Include a walk-through video of abuse or neglect crime scene if possible	
Medical Evidence	
Medical Records of current and underlying conditions from emergency room, nursing facilities, treating physicians, dentist, pharmacy, others	
Specific medical documents including lab reports, x-rays, nurses' notes, social worker's notes	
Medications – Include actual bottles/containers for prescriptions to show physician and pharmacy, possession and full/empty status given recommended dosage over time from the date of the last refill	
Adult Protective Services records of current and prior contacts	
Law enforcement contacts with involved parties and witnesses including 911 tapes, arrest reports, and criminal histories	
Jail records including phone calls and visitor logs by or on behalf of the suspects	
Other	
Financial Records	
Credit card reports	
Investment account records	
Credit reports	
Victim's bank records	
Checkbook registers	
Suspect's bank records	
Other	

<b>Legal Documentation</b>	
Powers of attorney	
Prior civil cases	
Court/protection orders	
Property deeds	
Wills and trusts	
Advanced directives/living wills	
Conveyances	
Guardianship/conservatorship documents	
Other	
<b>Consultation with Experts</b>	
Forensic accountants	
Handwriting analysts	
Geriatricians	
Geriatric psychologists and psychiatrists	
Medical Examiner	
Wound care experts	
Civil attorneys	
Other	
<b>Interviews</b>	
Witness who can describe the victim's condition, level of functioning, activities, and interaction with the defendant at the time of the incident and before. Include a description of changes over time.	
Medical providers (prior and current)	
Family and friends	
Banking/financial	
Hair stylists/barbers	
Local businesses	
Faith community	
Acquaintances/social	
Neighbors	
Adult day care services	
Adult Protective Services	
Civil attorneys	
Social services (Meals on Wheels, etc.)	
Payees for expenses the suspect paid with the victim's money	

Physical Evidence	
Photo and video documentation:	
Crime scene, including if relevant, the contents of the refrigerator, cupboards, and medicine cabinets (including actual bottles/containers for prescriptions to show physician and pharmacy, possession and full/empty status given recommended dosage over time from the date of last refill)	
Suspect's living area	
Victim's living area	
Major new purchases by the suspect	
Victim's body - Injuries over time	
Victim's body - signs of neglect	
Clothing victim was wearing at time of incident (include adult diapers if applicable)	
Bedding	
Writing/journals/letters	
Locks on outside of doors	
Photos and videos related to conduct	
Defendant's and victim's ISP records	
Legal file for victim's civil attorney	
Nutritional supplements	
Medications and supplies	
Restraints and bindings	
Assistive devices (or lack thereof)	
Defendant's computer, flash drives, etc.	
Checkbooks, check registers	

Adapted from the Prosecuting Elder Abuse Cases: Basic Tools and Strategies by the National Center for State Court, Williamsburg, VA

## ADDENDUM F: PROTECTIVE ORDERS AND RESTRAINING ORDERS

### PROTECTIVE ORDERS AND RESTRAINING ORDERS

There are many different forms of protective and restraining orders. Sometimes your case will involve Elder Domestic Violence. Peace officers should refer to the Countywide Domestic Violence and Children Exposed to Domestic Violence Law Enforcement Protocol for more information specific to Domestic Violence restraining orders.

If the case involves Elder Domestic Violence (intimate partner abuse between elders, or when an elder is the victim of intimate partner abuse), peace officers should consider the general policies and statutes below:

#### I. GENERAL POLICY:

Domestic Violence restraining /protective orders shall be enforced by all Law Enforcement officers. This includes orders from other states. (PC 13701, PC 836(c)(1)).

#### II. MANDATORY ARREST POLICY:

PC 13701(b) states that law enforcement **shall arrest** an offender, absent exigent circumstances, if there is probable cause that a DV restraining order/protective order has been violated. (PC 13701(b))

PC 836(c)(1) states that the officer shall make an arrest even without a warrant, and **whether or not the violation occurred in the officer's presence**. (PC 836(c)(1)).

**\*Important:** Per Penal Code section 13710(b), the terms and conditions of a Restraining or Protective Order remain enforceable, *notwithstanding the acts of the parties*, and *may be changed only by order of the court*. **This means that, "protected persons" are not in violation of protective orders when they acquiesce or invite the restrained party's contact, and should not be arrested.** (PC 13710(b))

**In situations where mutual protective orders have been issued**, liability for arrest applies only to those persons who are reasonably believed to have been the dominant aggressor. (PC 836(c)(3)). In those situations, before making an arrest, Law Enforcement shall make reasonable efforts to identify, and may arrest the dominant aggressor involved in the incident. The dominant aggressor is the person determined to be the most significant, rather than the first aggressor. In identifying the dominant aggressor, Law Enforcement shall consider a) the intent of the law to protect victims or domestic violence from continuing abuse, b) the threats creating fear of physical injury c) the history of Domestic Violence between the persons involved and d) whether either person involved acted in self-defense. (PC 836(c)(3)).

#### III. WHAT IS A "DOMESTIC VIOLENCE RESTRAINING ORDER/PROTECTIVE ORDER?"

Any order that enjoins one person from contacting another. (Orders issued pursuant to Family code section 2040, Family Code section 6218, Penal Code section 136.2, and those issued by a Criminal Court pending a criminal proceeding, *and Emergency Protective Orders*)

IV. HOW TO DETERMINE WHETHER THE ORDER IS VALID

- A. Law Enforcement can check with dispatch to see if a served order is on file.
- B. Law Enforcement can access full information about the terms of the order through SDLAW.
- C. Law Enforcement can also check on [www.sdsheriff.net](http://www.sdsheriff.net) which lists limited restraining order information for all protective orders that are entered into CLETS.
- D. Law Enforcement can also call the Sheriff's Department 24-Hour Law Enforcement Line (law enforcement only) at (858) 974-2457 and ask the following questions:

- 1. **Is there a restraining/protective order on file?** (If so, it will be filed under the name of the restrained party)

**IMPORTANT:** If Sheriff personnel cannot verify the order, it may still be enforceable. If the responding officer believes in good faith that an order presented to him or her at the scene is valid and the suspect was on notice (see questions B through E below), a *private person's arrest* may be made even though the Sheriff's Department was not provided a copy to enter into DVROS.

- 2. **What is the date of the order?** When did/does the Order become effective?
- 3. **What is the expiration date?** Has the Order expired?
- 4. **What are the terms of the order?** For instance, whether peaceful contact is allowed is important information in determining whether a violation has occurred.
- 5. **Was the restrained person served with the Order?** Is there a Declaration of Service on file or has another officer given the needed notice to the person to be restrained?

E. NO RECORD OF SERVICE. If no record of service exists:

- 1. Advise the restrained person that there is an Order in effect,
- 2. Give a copy of the Order to the restrained person or, if no copy is available to give, have the terms of the Order read over the phone and then verbally inform him/her of those terms,
- 3. Advise him/her that s/he is now subject to the terms of the Order and can be arrested for any further violations,
- 4. Notify the Sheriff's Department and report that you have served a copy of the Order on the defendant (The Sheriff will record your name, ID number, date, time and location that the suspect received notice),
- 5. Prepare and sign a Proof of Service, and
- 6. File the Proof of Service as part of the report. Investigations personnel shall ensure the original Proof of Service is filed with the court issuing the Order and a copy retained with the police report.



V. VICTIMS SHALL BE ADVISED ABOUT AVAILABILITY OF EMERGENCY PROTECTIVE ORDERS:

An Emergency Protective Order (EPO) can be an important tool for law enforcement in the prevention of future violence. Law Enforcement **shall inform victims of the availability of EPO** when they have reasonable grounds to believe there is an immediate and present danger 1) of Domestic Violence based on the person's allegation of recent abuse or threat of abuse, or 2) the EPO is necessary to prevent the occurrence or recurrence of Domestic Violence. *If the person requests such an order, the officer shall request an EPO from the court.* (Family Code sections 6275, 6251, 6250, PC 646.91)

- A. EPO's are available 24-hours a day, 7-days a week.
- B. This is not just an after-hours or weekend remedy.
- C. The fact that no crime has yet been committed does not eliminate the duty to advise victims about EPO's.
- D. **Law Enforcement does not need permission from victims or the request from victims in order to request an EPO from the court.** Law Enforcement can request EPO's on their own. (See Family Code 6250(a))
- E. Whether the respondent is in custody or the protected person left the home for safety reasons should have no bearing on the availability of an EPO, and should not be factored into the immediate and present danger determination.
- F. If a Protective Order is obtained, a Crime/DV Incident Report shall be prepared on the incident.

VI. HOW TO OBTAIN AN EMERGENCY PROTECTIVE ORDER:

*This procedure may be utilized 7 days a week, 24 hours a day.*

- A. If a protective order is being sought, the officer will complete Form EPO-001 (rev. 1-07) Application for Emergency Protective Order (CLETS).
- B. After court hours, weekends and holidays, the officer will telephone the duty judge through the duty telephone at the Sheriff's Office at 858-974-2493 (this is a non-public number).
- C. During court hours (8:00 a.m. – 5:00 p.m.) the officer will contact a judge through the Family Court at 619-844-2942 (this is a non-public number).
- D. Upon approval by the judge, the officer will complete Form EPO-001 (rev. 1-07), Emergency Protective Order (CLETS). This order may be granted for up to five (5) full court days and will expire at 5:00 p.m. on the last specified court day.
- E. The officer will provide the **pink copy** of the application and the order to the issuing agency and the **canary yellow copy** to the protected party. The officer will submit the **white copy** of the application to the restrained party. The **goldenrod copy** of the application will be attached to the crime report for the court.
- F. The officer requesting the Order shall carry copies of the order while on duty. (Pen. Code, § 13710(c)) requires the law enforcement officer to make a reasonable effort to serve the restrained party with the EPO)

- G. The officer will encourage the protected party to carry a copy of the Emergency Protective Order with him/her.
- H. Make sure to fax the front and back pages of the approved Emergency Protective Order to the Sheriff's office at (858) 974-2492 whether or not the EPO was served to the restrained party.
- I. Verbal admonishment by a law enforcement officer shall constitute valid service of the order under the following conditions:
  - a. Verbal admonishment must be conducted in person.
  - b. The terms and conditions must be read to the restrained person. Terms and conditions can be obtained by calling (858) 974-2457.
  - c. Advise restrained person to go to the local court to obtain a copy of the order containing the full terms and conditions of the order per Family Code section 6383(g).

**PREPARE A CRIME REPORT FOR EVERY DV RESTRAINING ORDER/PROTECTIVE ORDER VIOLATION.**

Law enforcement should always prepare and submit a crime report of the appropriate restraining order violation regardless of whether or not the suspect is still present at the scene.

**A. Out of State Orders**

Officers shall enforce out-of-state protective or restraining orders that are presented to them if conditions below are met. "Out-of-state" orders include those issued by U.S. Territories, Indian tribes, and military agencies.

1. The order appears valid on its face.
2. The order contains both parties' names.
3. The order has not yet expired. (Full Faith and Credit Provision of the Violence Against Women Act, Family Code 6400-6409)

Officers should check CLETS to determine if the order has been registered in California. If the order is not registered, an attempt should be made to contact the foreign jurisdiction or its registry for confirmation of validity.

If validation cannot be substantiated, contact the Duty Judge for an EPRO, but the out-of- state protective or restraining order must still be enforced if it meets the above criteria. If not registered in California parties should be advised to immediately register the order through the Family Court.

**B. When it appears the protected party invited the Restraining Order violation:**

Occasionally, officers may encounter a situation wherein a protected party has encouraged or invited a restrained party to violate the terms of an order by initiating contact. Officers should remember that the order remains in effect until canceled by the court, and that the restrained party is the only person in violation of the order in such a situation. (PC 13710(b))

## ADDENDUM G: CROSS-REPORTING REQUIREMENTS

### LAW ENFORCEMENT CROSS-REPORTING REQUIREMENTS

LOCATION OF ABUSE	CROSS-REPORTING REQUIREMENT
Long term care facility	Long Term Care Ombudsman Program (1-800-510-2020) and the State Department of Public Health (916-558-1784) and to the licensing agency. (W&I 15640(e)).
State mental health hospital or a state developmental center	Refer to the office of Protective Services (916-651-7185) or Regional Center (858-576-2996)
Anywhere else	Adult Protective Services (APS) telephone report to (San Diego: 1-800-510-2020) and (outside San Diego: 1-800-339-4661) and send written report within two working days, or complete referral to the AIS Web Portal. <a href="http://www.AISWebReferral.org">www.AISWebReferral.org</a>
TYPE OF ABUSE	CROSS-REPORTING REQUIREMENT
Any case of known or suspect abuse	Local Law Enforcement
Any case of known or suspected criminal activity	Attorney General's Bureau of Medical Fraud & Elder Abuse (1-800-722-0432)
WHO COMMITTED THE ABUSE	CROSS REPORTING REQUIREMENT
Licensed Health practitioner	Appropriate licensing agency

## ADDENDUM G: CROSS-REPORTING REQUIREMENTS

### ADULT PROTECTIVE SERVICES CROSS-REPORTING REQUIREMENTS

LOCATION OF ABUSE	CROSS-REPORTING REQUIREMENT
Long Term Care facility	Shall immediately inform reporting party that he or she is required to make the report to the Long Term Care Ombudsman program or to a local law enforcement agency. Shall not accept the report by phone but shall forward any written report received to the long term care ombudsman.
TYPE OF ABUSE	CROSS-REPORTING REQUIREMENT
Financial abuse	Prior to making any cross report of allegations of financial abuse to local law enforcement, APS shall first determine whether there is a reasonable suspicion of any criminal activity (W&I 15640(a)(1)).
Any case of known or suspected criminal abuse	Local law enforcement
Incidents of suspected abuse	Cross report to any other licensing or public agency charged with responsibility for investigation of incidents of suspected abuse W&I 15640(b).
WHO COMMITTED THE ABUSE	CROSS REPORTING REQUIREMENT
Licensed Health Practitioner	Cross report to appropriate licensing agency