ELDER AND DEPENDENT ADULT ABUSE PROTOCOL

June 2017

FOR SANTA CLARA COUNTY LAW ENFORCEMENT

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MISSION STATEMENT

Santa Clara County's Law Enforcement Agencies, District Attorney's Office, Victim Services Unit, County Counsel's Office, Social Services Agency-Department of Aging and Adult Services, and Long Term Care Ombudsman Program are committed to the prompt, thorough and effective investigation of incidents of elder and dependent adult homicide, sexual and physical abuse, neglect, abduction and financial abuse. This commitment recognizes the importance of respecting victimized elder and dependent adults and their families, holding offenders fully responsible for their conduct, and providing appropriate intervention and preventive services to elder and dependent adults in crisis. This protocol commits the signatory agencies to: (1) conduct prompt, thorough investigations of elder and dependent adult homicide, sexual and physical abuse, neglect, abduction and financial abuse; (2) reduce trauma to victimized elder and dependent adults; (3) cooperate effectively to investigate, prosecute and prevent elder and dependent adult abuse within Santa Clara County; (4) train its employees on recognition and investigation of elder and dependent adult abuse; and, (5) contribute to a periodic review of this protocol.

Chief David Swing, Chair
Police Chief's Association of Santa Clara County

6/8/17
Date

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INTRODUCTION

I. NEEDS STATEMENT

The population of California has changed drastically over the past several years. According to the 2010 United States Census Bureau, there were 4,246,514 persons (or 9% of the population) aged sixty-five years and older in California. It is projected that by the year 2020, the population of those 65 years of age and older in California will increase to 6,622,000 which may represent 14% of the expected population.

As people live longer they also face more problems with chronic illness and disabilities. Nearly half of the population aged 85 or older live alone and are among the most vulnerable and impoverished groups in California.

The change in the composition of our population and the sheer number of older persons has had and will continue to have important implications for our law enforcement community. The number of elderly victims entering the criminal justice system can be expected to increase significantly including those that are victims of physical abuse, neglect, psychological or emotional abuse, sexual abuse, financial exploitation and homicide. Elder abuse affects individuals of all races, religions, socio-economic status and gender.

Traditionally, law enforcement has dealt with crime committed by and against a younger population. This population shift, and the increase in crime targeted specifically against older persons, requires the development of specialized services to address elderly victims of crime.

II. PURPOSE OF PROTOCOL

Differences in practices and policies by the many disciplines that provide service to dependent adults and elderly victims can lead to significant disparities in prevention, protection, reporting and service to those victims.

- The purpose of this protocol is to institute a coordinated Law Enforcement response in order to promote a comprehensive method of addressing abuse, neglect and exploitation of dependent adults and older persons.

- This protocol will provide model guidelines and investigation procedures for law enforcement responding to abuse, neglect and exploitation against dependent adults and the elderly.

- Implementation of this protocol will improve law enforcement's overall coordinated response to elderly victims of crime. In addition, it will enable officers to more clearly focus on the safety and well-being of the victim and the accountability of the offender.

- Utilization of this protocol will ensure a more coordinated community response with law enforcement, by bringing together health care, social service and elder protective services in serving victims of abuse, neglect and financial exploitation.

Specifically, the goals of these protocols are the following:

- Reports of abuse, neglect, and financial exploitation of dependent adults and older persons are to be fully investigated regardless of the relationship between the victim and the suspect(s).
- Collaboration and coordination of efforts with dependent adult and elder abuse provider agencies shall be made in response to elder abuse, neglect, financial exploitation and self-neglect.
- Expedient and full reporting should be made to appropriate agencies on any case of confirmed or suspected abuse, neglect, and financial exploitation, including non-criminal acts, and organized scam/fraud. This should be done regardless of the victim's capacity to understand the consequences of their actions. It is the policy of this protocol that officers utilize the arrest powers granted by law when there is probable cause to do so.
- Immediate effective assistance and protection to dependent adults and elderly victims of crime should be provided and appropriate actions against offenders should be taken. Further, the implementation of these solutions should not result in increased risk to the victim and should not exacerbate the situation.
- Officers will treat all older persons with dignity and respect including recognizing an older person's right to self-determination. Self-determination is a competent person's right to make his or her decisions, including the right to privacy and to refuse well-intended interventions.

III. POLICY COMPONENTS

In order to achieve an effective response to elderly crime victims, this law enforcement agency will utilize the model investigative procedures and promote the following goals and responsibilities:

A. Interagency Cooperation

Interagency cooperation is a goal that requires a teamwork approach. Coordination of law enforcement, prosecutors, banking, medical, court, mental health and victim advocates is necessary for a thorough response to a case involving a dependent adult or an elderly crime victim. For the purpose of this protocol, elder abuse staff shall include personnel from Adult Protective Services (APS), Ombudsman (OMB), State Department of Mental Health Services, State Department of Developmental Services and Bureau of Medical Fraud.

B. Training

Successfully addressing many of the crimes perpetrated against dependent adults and the elderly is complex and requires specialized intervention techniques. Therefore, members of the department who respond to cases involving the abuse, neglect, financial exploitation, and/or fraud of an older person should go through specialized training. Training will include laws impacting dependent adults and elderly crime victims, victim and offender profiles, interviewing techniques, investigative strategies, evidence collection and joint investigation procedures with elder and dependent adult abuse agencies. Like any profession, continuing education is critical for the development of expertise. Law enforcement professionals, veterans and recruits, will participate in ongoing education opportunities.

C. Communications

The communications personnel will solicit information from callers to determine the facts of the report, the condition of the victim, explain the law enforcement response and needs to the caller, and initiate the appropriate law enforcement response. Referral information will also be provided, when applicable.

IV. MODEL INVESTIGATION PROCEDURES

A. Pre-Investigation – Police officers will:

- Know the prosecution standards for elder and dependent adult abuse crimes including criminal neglect, financial exploitation, and physical abuse.
- Maintain an ongoing collaborative commitment to working with all agencies and institutions responding to crimes against elder and dependent adults.
- Understand the role of police work in responding to crimes against elder and dependent adults.
- Understand the role of all elder and dependent adult abuse caseworkers in supporting victims of abuse, neglect and financial exploitation.

B. Responding Officer responding will:

- Safely and expeditiously respond to the complaint.
- Ensure the safety of the victim and, if assistance is needed, notify the appropriate medical, law enforcement, and social service personnel. In cases of suspected abuse, neglect, and financial exploitation, submit a report to the elder and dependent adult abuse provider agency if a report has not been made by communications personnel.
- Conduct a thorough preliminary investigation including: identifying the victim, suspects, and witnesses, identifying and preserving the crime scene, telling the elder or dependent adult victim what will be expected of them in the investigation, i.e., hospital, evidence collection, in-depth interview.
- Respect and protect the confidentiality and the wishes of the elder or dependent adult regarding the notification and participation of others throughout the investigation.
- Complete the necessary reports, departmental notifications, and transfer information to the evidence collector and the follow-up investigator, if another officer will assume those roles.

C. The evidence collection technician or other officer who collects evidence will:

- Determine available facts of the case by interviewing the appropriate responding and investigating officer(s).
- Assess and preserve the crime scene as in any other crime.
- Identify all possible evidence, depending on the nature of the crime and conduct a thorough evidence search. Photograph and videotape, when appropriate.
- Complete the necessary reports, including documents to transfer evidence, and transfer information to the follow-up investigator.

D. Follow-up Investigators will:

- Consult with the responding officer and any evidence collectors.
- Develop an investigative strategy.
- Videotape/audiotape and conduct in-depth interviews with the victim, alleged offender(s), and witnesses.
- Ensure that all evidence has been identified, collected, properly stored, and processed from the crime scene, the victim, the offender, and other sources (i.e., bank records, contracts, wills, etc.).
- Ensure the victim has been referred to the appropriate elder abuse provider agency or other social service provider, as needed.
- In cases of abuse, neglect, and exploitation, conduct a joint investigation of the allegations with the elder abuse provider agency in the jurisdiction.
- Complete the necessary reports and transfer information to the District Attorney's Office for prosecution.
- Respect and protect the confidentiality and the wishes of the elder or dependent adult regarding the notification and participation of others throughout the investigation.

MANDATORY REPORTS

Welfare and Institutions Code Sections (W&I) relating to the protection of elder and dependent adults provide for the reporting of abuse or neglect to various agencies such as Adult Protective Services (APS), local law enforcement, the Long-Term Care Ombudsman and others.

I. MANDATORY REPORTING (Welfare and Institutions Code section 15630)

A. Adult Protective Services

Each California County is mandated to have an Adult Protective Services (APS) agency to investigate abuse and neglect of elder adults (65 years and older) and dependent adults (18 – 64 who are disabled and are unable to advocate for themselves). APS receives reports of abuse and conducts investigations of elders and dependent adults who live in private homes, apartments or hotels.

B. Who Must Report

"Any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency is a mandated reporter." ***Welfare & Institutions Code section 15630(a)***

1. Care custodians (e.g., attendants, day care staff, senior center staff)
2. Health care practitioners (e.g., doctors, dentists, nurses, therapists, and their office staff)
3. Law enforcement agency employees
4. Medical examiners
5. Paramedics and firefighters
6. Code enforcement agency employees
7. Animal control agency employees
8. Financial institutions employees
9. Clergy members
10. Adult/child protective services staff
11. All staff of Santa Clara County Social Services Agency having client contact

C. What to Report

"Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has

experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practically possible. If reported by telephone, a written report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days." ***Welfare & Institutions Code 15630(b)(1)***

1. Physical abuse: (Including **sexual abuse assault [W&I 15610.63(e)(1-8)]**; battery; severe deprivation of food or water, unreasonable use of restraints). **[W&I 15610.63(d)]**
2. Neglect: (Failure to provide for basic needs). **[W&I 15610.57(a)]**
3. Financial abuse: (Including theft, fraud or embezzlement). **[W&I 15610.30]**
4. Abandonment: (The willful desertion by care custodian). **[W&I 156610.05]**
5. Isolation: (Including false imprisonment). **[W&I 15610.43]**
6. Abduction: (Including removal from this state and restraint from returning to this state). **[W&I 15610.07]**
7. Self-neglect: (Inability to provide for basic needs for oneself). **[W&I 15610.57(b)]**
8. (Mental suffering - reporting optional): (Including emotional abuse due to threats, intimidation or harassment). **[W&I 15610.53]**

Mandated reporters are **required** to report when:

- The victim reports abuse has occurred;
- Abuse is observed by the mandated reporter; OR
- Abuse is reasonably suspected (e.g., injury or condition).

Abuse occurring in any place other than a long-term care facility should be reported to Adult Protective Services as follows:

Steps to report Dependent Adult or Elder Abuse to Adult Protective Services:
(Call 911 for Life-Threatening Emergencies)

1. Call APS to report elder or dependent adult abuse immediately or as soon as is practicably possible:
   - **408-975-4900 or 1-800-414-2002**
   - **408.975-4800: Law Enforcement ONLY line (new)**
2. Complete State of California Abuse report forms:
   - Mandated Reporters and all other reporters use this form:
     Report of Suspected Dependent Adult/Elder Abuse: SOC 341
   - Financial Institutions ONLY use this form:
     Report of Suspected Dependent Adult/Elder Financial Abuse: SOC 342
3. Mail the written report within 2 working days to:
   - **Santa Clara County Adult Protective Services**
     333 West Julian St. – Fourth Floor
     San Jose CA 95110
4. **FAX SOC 341/342 form to (408) 975-4910**

To report dependent adult/elder abuse that has occurred in a long-term care facility such as a skilled nursing facility or residential care facility, call the Long-Term Care Ombudsman:
408-944-0567
(800) 231-4024 (24-hour)

Physical abuse occurring **in a long-term care facility** (other than a state mental health hospital or a state developmental center) must be reported by telephone to law enforcement within 24 hours and by written report to the local ombudsman, licensing agency and local law enforcement within 24 hours unless the abuse results in serious bodily injury in which case the abuse must be reported to law enforcement by telephone within 2 hours and by written report to the local ombudsman, licensing agency and law enforcement. (See page 12 for licensing agency contact information. See page 84 for law enforcement contact information.)

Any abuse occurring in a **state mental health hospital** shall be reported within 2 hours to the State Department of Mental Health. (916) 322-7445 or (916) 651-3788.

Any abuse occurring in a **state developmental center** shall be reported within 2 hours to the State Department of Developmental Services. (916) 654-3338.

Failure to report suspected abuse is a misdemeanor punishable by imprisonment/fine.

Confidentiality: A mandated reporter is required to give their name. The identity of all persons who report shall be confidential. Violation of statutory confidentiality is a misdemeanor. APS may reveal the names of reporting parties only to other investigative agencies as specified by law. No person required to report abuse will bear criminal liability for reporting. No supervisor or administrator may impede or prohibit reporting.

Violation of statutory confidentiality is a misdemeanor. [W&I 15633(a)]

II. CROSS-REPORTING (Welfare and Institutions Code sections 15630 and 15640)

Under certain circumstances, agencies must **Cross-Report** incidents of abuse. The purpose of this is to ensure thorough investigations, as well as optimal coordination among agencies when more than one agency is involved.

A. **Law enforcement** must cross-report to APS or the local ombudsman and, when applicable, to the agencies listed below. Even if the investigating officer does not believe the evidence rises to the level of a crime, a report must still be made to the appropriate elder abuse agency. The level of evidence required of the elder abuse agency to substantiate an allegation is generally less than that of a crime. Moreover, referral of a matter by law enforcement to another elder abuse agency does not relieve law enforcement's responsibility to also investigate the complaint to determine if criminal violations have occurred.

B. **APS** and the **local ombudsman** must cross-report to the appropriate law enforcement agency.

C. **Law enforcement** and the **local ombudsman** must cross-report abuse in long-term care facilities to the appropriate licensing agency:

1. Abuse of a resident in a licensed residential care facility or adult day program should be reported to the Department of Social Services Community Care Licensing (408) 324-2112, fax (408) 324-2133;

2. Abuse of a resident in a nursing home should be reported to the Department of Health Care Services Licensing and Certification (408) 277-1784, or 1-800-554-0348, fax 1-408-277-1032. The Department of Health Care Services can be contacted 24/7 at the following numbers: (916) 492-8232 (hotline), (916) 445-4423 (live person), e-mail: cnamisconduct@cdph.ca.gov;

3. Abuse of a resident in a long-term health facility, hospital or adult day health care center should be reported to the Department of Public Health (Health facilities certification and licensing) 1-800-236-9747 or 1-916-552-8700;

4. Some criminal activity might be appropriately referred to the Bureau of Medi-Cal Fraud and Elder Abuse: 800-722-0432 or 800-822-6222;

5. Abuse of a resident at a state developmental center should be reported to the Department of Developmental Services (916) 654-3338;

6. Abuse of a resident in a state mental health facility should be reported to the Department of Mental Health licensing and certification (916) 322-7445 or (916) 651-3788.

Note: Prior to making any cross-report of allegations of **financial** abuse to law enforcement agencies, APS shall first determine whether there is reasonable suspicion of any criminal activity. [W&I 15640(a)(1)]

D. Confidentiality

1. The identity of all persons who report shall be confidential and disclosed only among adult protective services agencies and their counsel; long term-care ombudsman programs and their counsel; licensing agencies and their counsel; local law enforcement agencies and their counsel; the Bureau of Medi-Cal Fraud; the Deputy District Attorney in a criminal prosecution; when the reporting party waives confidentiality or by court order. [W&I 15633.5(b)]

2. The reports and information contained therein are confidential and may be disclosed only as follows:

   a. To the agencies entitled to know the identity of the reporting party as listed in paragraph A above. [W&I 15633(b)(1)]

   b. To persons who are trained and qualified to serve on multi-disciplinary personnel teams which may include police officers, medical personnel and public guardians. [W&I 15633(b)(2)(A), W&I 15610.55]

   c. APS may disclose abuse reports to the law enforcement agency having jurisdiction over the case, including out-of-state law enforcement. [W&I 15640(a)(1)]

   d. APS may disclose abuse reports to elder and dependent adult death review teams. [W&I 15633(b)(2)(A), W&I 15610.55]

   e. The Ombudsman cannot disclose the identity of any complainant or resident without consent from them or by court order. Federal Older Americans Act, Title VII, Chapter 2, Section 712 (d).

SECTION THREE: JOINT INVESTIGATION

I. CONDUCTING JOINT INVESTIGATIONS

In situations where it is suspected that a crime has been committed against an elder or dependent adult, the elder abuse provider and law enforcement agency will discuss whether a joint intervention is appropriate. The primary purposes of a joint intervention are to provide protection to the victim and to utilize law enforcement options that may be available. Each case is unique; therefore, the joint approach will vary depending on the circumstances of the situation.

To ensure a successful outcome, elder abuse and law enforcement agencies agree to work cooperatively and to develop intervention strategies in accordance with the respective roles of each agency.

Agencies involved in the investigation will remain mindful that their focus may differ from that of the other agency or agencies. For instance, while a law enforcement officer is responsible for documentation of the crime, the APS social worker and/or OMB are there to provide supportive services and to ensure the elder is safe. Any conflicts regarding the role of each of the agencies involved in the investigations should be kept confidential from the subjects of the investigation and referred to respective supervisor.

A. Deciding whether to conduct a joint investigation:

Officers may conduct joint investigations with Adult Protective Services (APS), Long Term Care Ombudsman (OMB), the Bureau of Medi-Cal Fraud, the Attorney General's Office or any one of the other agencies authorized to receive a cross-report and charged with the duty to investigate elder or dependent adult abuse. The need for a joint investigation may not be immediately apparent and can be made at any stage of the investigation.

B. Communication during the joint investigation:

Should a joint investigation be deemed appropriate, the agency initiating the investigation shall provide the other agency with information regarding the status of the case. Thereafter, both agencies shall provide each other with periodic updates of their investigation, as appropriate and necessary, to assure effective coordination and efficient use of agency resources.

C. Sharing of investigative reports:

W&I Code section 15640 requires APS, local law enforcement & Ombudsmen to cross-report. This section also provides that APS, local law enforcement and Ombudsmen shall report the results of their investigation of referrals or reports of abuse to the respective referring or reporting agencies. Welfare and Institutions Code sections 15633-15637 allows APS, Law Enforcement and multidisciplinary teams such as the Financial Abuse Specialist Team (FAST) and Elder Death Review Team (EDRT) to share amongst themselves other "Investigative Reports" excluding contact notes, assessments and service plans.

D. Roles of joint investigators:

The APS or OMB and law enforcement officer will discuss the referral or incident information and determine what role each individual will play in the investigation. Decisions will be reached on who will be contacted (referral resources, victim, witness,

alleged perpetrator), and where contacts will occur (home, office, police station, other protected setting). Law enforcement and elder abuse agencies will coordinate victim and witness interviews whenever possible.

Law enforcement staff will determine whether a crime has been committed against the dependent adult or elderly person. They will preserve the crime scene (which may include photographing evidence, injuries or conditions), obtain preliminary statements of the victim and witnesses and identify specific violations.

APS or OMB will assess the risks that are present for abuse, the elderly victim's ability to deal with the situations and willingness to accept assistance from others. Arrangements for care may be needed if medical or psychological problems exist which may affect the victim's ability to participate fully in the investigation process. Staff will also develop an intervention strategy that includes the coordination of medical care, supportive counseling, services or other resources in the community, including the need for emergency relocation to a protected setting, and victim assistance for support through the criminal justice system.

E. Cases involving abuse in nursing homes:

There is concurrent jurisdiction between the Santa Clara County District Attorney's Office and the State Attorney General's Office in nursing home cases. The Supervising Deputy District Attorney for the Family Violence Unit at the District Attorney's Office should be informed at the outset of any investigation of a nursing home so that the investigation and prosecution of the nursing home or its employees can be coordinated with the California State Attorney General's Office.

WELFARE CHECKS

Adult Protective Services (APS) social workers or staff from other agencies are often in a position of needing immediate evaluations of a person's safety and well-being and at times may request welfare checks by law enforcement agencies. Such checks enable APS to most appropriately coordinate services to victims and ensure safety in a timely manner.

I. WELFARE CHECKS WITH REPORTING PARTY

If the reporting party (RP) needs immediate Law Enforcement assistance to do a welfare check on victims of abuse the following steps will be adhered to:

1. Communications shall ask the RP if there are any weapons, threats, or violence and if this is a life-threatening situation and obtain all pertinent and specific information.

2. The officer will meet the RP at the location given and be briefed about the incident. If appropriate, both parties will conduct the welfare check.

3. APS' responsibilities are to assess for risk, investigate abuse and provide interventions and services to the victims. The police officer responsibilities are to investigate and document the incident for possible prosecution. The officer will document the incident on a crime report even if the case is unfounded.

4. The officers shall check the following:
    a. The condition of the home.
    b. The ability of the individual to recognize and communicate their most basic needs.
    c. The general appearance of the person.
    d. The presence or lack of food, water or electricity in the home.
    e. Signs of any significant medical needs, e.g. bed sores, odor, feces or urine, etc.
    f. An altered mental state.
    g. Quality of relationships with others in home.
    h. The ability to enlist assistance of others when needed.
    i. Whether or not the person might present a danger to themselves or others.
    j. The presence or availability of a caretaker, if necessary.

5. If the RP is not at the scene, the officer will:
    a. Call the RP while still at the scene.
    b. Provide RP with detailed information about the victim's situation to include A-J above, if RP is authorized receiver of information (see Protocol Section Two, Subsection D.)

6. Conduct any cross-reporting as necessary.

REQUIREMENTS FOR PROTECTIVE CUSTODY OR DETENTION

I. PROBABLE CAUSE REQUIRED

A peace officer may upon probable cause take or cause to be taken the person into custody and place them in a facility designated by the county and approved by the state as a facility for 72-hour treatment and evaluation when all the following conditions are met:

As a result of **mental disorder**, a person is

A **danger to others**, or

A **danger to self**, or

Is **gravely disabled**

Gravely Disabled: A condition in which a person, as a result of mental disorder, is presently unable to provide for their basic personal needs for food, clothing and shelter.

II. WRITTEN APPLICATION REQUIRED

The facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, which leads the officer to have probable cause to believe that the person meets the above-listed requirements. [W&I Code 5150]

III. AT THE SCENE/AT THE FACILITY

A. ASSESS FOR SAFETY

Once on scene, the officer needs to assess the area to make sure it is safe to enter.

B. CONDUCT EVALUATION

Once contact is made, the officer must evaluate the subject for a mental disorder before a 72-hour detention can be placed on the subject. **Again, the officer must have probable cause to believe that the person is a danger to self, a danger to others, or is gravely disabled.**

C. READ DETAINMENT ADVISEMENT TO SUBJECT

Whoever takes a subject into custody (under W&I 5150) shall provide the subject with the information contained in the attached Detainment Advisement section, which is on the upper right hand corner of the Application for 72-hour Detention for Evaluation and Treatment form (Form MH302- See Directory B, Web Resources for a copy of the form).

If the Detainment Advisement is not read, the officer must write in a good cause for an incomplete advisement. Examples of good cause includes: patient not conscious, patient not lucid, etc.

IV. TRANSPORT SUBJECT

If the subject falls within one of the listed categories, the officer can take the subject into custody and transport them to the designated facility for 72-hour treatment and evaluation. The designated facility in Santa Clara County is the Valley Medical Center-Emergency Psychiatric Services (VMC-EPS).

> The officer must fill out the MH302 Form, Application for 72-hour Detention for Evaluation and Treatment. The application for a 72-hour detention form is used to document the circumstances surrounding the detention and commitment of any person deemed to be a danger to self, a danger to others, or gravely disabled as defined by Welfare and Institutions Code section 5150. This form is also used by Emergency Psychiatric Services (EPS) at Valley Medical Center (VMC) as a part of the person's medical file after commitment and must accompany the person to EPS or be completed there. A photocopy of this form should be attached to the actual police report form.

CONSERVATORSHIP

When someone is claiming to be a conservator to an elder or dependent adult, an attempt will be made to confirm the conservatorship by asking the following questions:

1. Who makes the decisions for the elder/dependent adult?
2. What documents do they have appointing them as the conservator? Obtain a copy of any related documents.
3. Confirm conservatorship by contacting either:
   a. Santa Clara County Superior Court Probate Investigations – 8:00 am to 5:00 pm, Monday thru Friday - **(408) 882-2761**
   b. On call Deputy Public Guardian or supervisor - **(408) 577-2500**
4. Check the Santa Clara County Superior Court website civil index under the parties' names at http://www.sccaseinfo.org/#.

PATROL OFFICER RESPONSE - NEGLECT, SELF-NEGLECT, ENDANGERMENT

I. GENERAL ISSUES WITH NEGLECT OR ENDANGERMENT

Neglect (including **Self-Neglect**) means the negligent failure of a caretaker or custodian, or the elder or dependent adult, to exercise the degree of care a reasonable person would have exercised in the same situation. Persons at risk for neglect include individuals who rely on others as a result of frailty, medical (recent or long-term), mental or physical disability.

Neglect includes the failure to provide medical care for physical and mental health needs; failure to protect from health and safety hazards; failure to provide necessities of life including food, clothing or shelter; and failure to prevent malnutrition or dehydration. Neglect can be acts and omissions on the part of the elder/dependent adult and/or caretaker.

It is common to observe a combination of indicators when neglect exists. Neglect may be found in varying degrees and may be recent or long-standing. Care should be taken to photograph and document evidence that will likely change with better care.

There also may be non-criminal influences (poverty, family background/culture, ignorance) that may contribute to the appearance of neglect which are consistent with normal living conditions of that person's family. The need for action should be guided by the likelihood of harm to the person if allowed to remain in those conditions.

II. COLLECTION OF EVIDENCE OF NEGLECT OR ENDANGERMENT

A. Document Physical Evidence

1. Photograph and/or video tape the elder/dependent adult and living conditions. Are there unsanitary or unsafe living conditions?
2. Collect clothing and bedding that may be evidence of neglect. Is there a lack of clothing?
3. Report on food condition (document expiration dates, inventory refrigerator contents). Is there an adequate supply of food?
4. Photograph health and safety hazards (i.e. unguarded stairwells, broken windows, exposed wires, inadequate plumbing).
5. Report on insect infestation. Photograph animal or insect bites on elder/dependent adult.
6. Document number and kind of animals (pets) in the living environment.
7. Photograph sleeping arrangements.
8. Determine if there are proper utilities including heat, water and electricity.
9. Are there restraints?

10. Document signs of health and medication mismanagement (e.g. empty or unmarked bottles or outdated prescriptions, the absence of needed dentures, eyeglasses, hearing aids, walker, wheelchair, or braces.)
11. Is there a telephone or other ways to communicate?
12. Seize and book into evidence, any object used to injure the elder/dependent adult.

B. Obtain Statements

1. Reporting party;
2. Elder/dependent adult(s);
3. Witnesses, neighbors and/or relatives;
4. Caretaker(s);
5. Medical personnel;
6. Other professionals, including APS.

C. Additional Investigative Agencies

1. Criminal History data (local, state, national);
2. Adult Protective Services;
3. Department of Motor Vehicles;
4. Fire Department;
5. Ombudsman's Office – administered by the California Department of Aging;
6. Animal Services;
7. Code Enforcement.

D. Medical Treatment

1. Document extent of injuries and treatment.
2. Obtain names, addresses, and phone numbers of fire, paramedic, or medical personnel.
3. Medical reports/Obtain signed medical release.
4. Obtain medical history.
5. Determine if there is substance abuse by the caretaker or elder/dependent adult.
6. Does anyone have a valid "power of attorney?" If so, whom and does it cover medical decisions?

E. Observations of the Elder/Dependent Adult

1. Hunger, malnutrition, dehydration (as evidenced by low urinary output, dry, fragile skin, dry, sore mouth, apathy, or lack of energy and mental confusion);
2. Potbelly with diarrhea;
3. Edema (swelling, bloating);
4. Poor personal hygiene including soiled clothing, matted or lice-infested hair, odors or presence of feces, dirty nails/skin;
5. Bed Sores, rashes or skin disorders bruising;
6. General demeanor e.g. listlessness;
7. Untreated illnesses or medical disorders;
8. Pallor, sunken eyes or cheeks.

F. Take Photos Showing Full View

1. Photograph injuries from several angles.
2. Photograph injuries from different distances.
3. Start with a full body shot for identification purposes, then gradually narrow the focus to specific injuries.
4. Photograph injuries with and without a forensic ruler or other measuring device.

III. BEHAVIORAL INDICATORS OF THE ELDER/DEPENDENT ADULT OR CARETAKER

A. Caretaker/Suspect

1. Do they show a lack of concern about the incident or the elder/dependent adult?
2. Do they keep the elder/dependent adult or themselves isolated?
3. Is there evidence of substance abuse in the home?
4. Do they display inappropriate behavior or an inappropriate reaction to the incident?
5. Do they leave the elder/dependent adult unattended?
6. Do they appear under stress, e.g. pressured, frustrated, depressed, angry or sad?
7. Do they blame the elder/dependent adult, e.g. make accusation that incontinence is a deliberate act?
8. Do they demonstrate aggressive behavior, e.g. threats, insults, harassment, or threatening gestures?
9. Is there a previous history of abuse to others, e.g. children or spouse?

B. Elder/Dependent Adult

1. Is the elder/dependent adult alert and oriented to time, place, person, and surroundings?
2. Is the elder/dependent adult able to perform activities of daily living, e.g. cooking/bathing/etc.?
3. Has there been a recent change in the elder/dependent adult's demeanor, eating or drinking habits?
4. Who are the family members and caretakers?
5. Does the elder/dependent adult recognize and identify caretaker(s)?
6. Does the elder/dependent adult seem to be intimidated by the caretaker and/or concerned about retaliation?
7. How dependent is the elder/dependent adult on the caretaker(s)?
8. Can the elder/dependent adult recognize and communicate their basic needs?
9. Can the elder/dependent adult enlist the assistance of others when needed?
10. Is the elder/dependent adult non-responsive or expressing feelings of helplessness?
11. Is the elder/dependent adult a danger to self or others?
12. Does the elder/dependent adult exhibit symptoms of detachment, delusions, impaired judgment or dependency?

IV. MISSING PERSONS

Cases reviewed by the Elder Death Review Team have revealed that elder pedestrians killed by vehicles are too often "missing persons" whose caretakers either intentionally or unintentionally failed to give them the proper level of care. The EDRT therefore recommends that law enforcement do the following:

1. Report instances of "found" elders or dependent adults to Adult Protective Services;
2. Respond to the "found" person's residence and determine:
   a. The identity of any caretaker;
   b. The circumstances of the elder/dependent adult leaving the residence;
   c. When and how the caretaker realized the elder/dependent adult was gone;
   d. The caretaker's response to the elder/dependent adult being found;
   e. Whether there are provisions in place to ensure the situation will not recur;
3. Conduct a records check for any previous "missing persons" reports involving the same individuals;
4. Consider whether further investigation pursuant to Section 7, subsections II and III is warranted.

INVESTIGATIVE FOLLOW-UP - NEGLECT, SELF-NEGLECT AND ENDANGERMENT

I. REVIEW THE INITIAL PATROL RESPONSE

Ensure that Protocol Section Seven has been followed.

II. INITIAL CASE REVIEW AND ASSESSMENT

A. Determine that the elder/dependent adult is safe and whether there is a need for emergency housing.

B. Ensure that the case has been cross-reported. (Protocol Section Two, Subsection II – Cross-Reporting)

C. Make contact with the assigned Adult Protective Services social worker or the Attorney General's Department of Justice Elder Abuse Investigator for the possibility of a joint investigation.

D. Verify that the preliminary investigation has addressed all elements of the reported crime.

E. Obtain and review all available evidence, including medical information and photographs.

F. Determine if there is more evidence to gather.

G. Determine the need for further investigation and photographs.

H. Determine custody status of the suspect(s). Has the suspect been interviewed?

I. Avoid premature arrests of suspect(s) in neglect cases prior to additional interviews.

J. If there is an unidentified suspect, or the suspect is at large, make appropriate law enforcement notifications and all-points-bulletins; coordinate with other agencies.

III. CORROBORATING INFORMATION

A. Determine if medical personnel saw the elder/dependent adult.

1. Obtain a signed medical release for the medical records.
2. If the victim is conserved, obtain conservator(s) signed release. Also obtain any paperwork that documents the conservatorship.

B. Interview the treating physician(s) regarding the incident.

Obtain their educational/medical background in relation to the abuse.

C. Statement of suspect(s).

1. An attempt should be made to interview all suspects.

2. Interviews should always be recorded, minimally on audio tape and ideally on video tape.
3. All statements, including spontaneous statements, shall be made part of the offense report.
4. "Mirandize" the suspect during a custodial interrogation.
5. Determine the suspect's access to the elder/dependent adult at the time of the reported offense.
6. Refer to Appendix A - "Suggested Questions for Suspect/Caretaker in Cases Involving Elder/Dependent Adult Abuse."

D. Statement of witness(es).

E. Evidence.

1. Photographs of scene.
2. Take photos showing full view of the elder/dependent adult.
   a. Photograph injuries from several angles.
   b. Photograph injuries from different distances. Start with a full body shot for identification purposes, then gradually narrow the focus to specific injuries.
   c. Photograph injuries with and without a forensic ruler or other measuring device.
   d. Photograph scene documenting health and safety hazards.

F. Pretext conversations.

All conversations should be recorded.

G. Line-ups.

H. Computer.

(i.e. hardware, data, e-mail, storage media)

I. 911 recording(s).

J. Weapons.

Seize and book any object used to injure the elder/dependent adult.

K. Medications.

Note all medications and book sample(s) as evidence if material to the case.

L. Searches:

1. Consent
2. Probation/Parole
3. Exigency/Emergency
4. Warrant

M. Report on food conditions:

1. Samples.
2. Document expiration dates.
3. Inventory refrigerator/freezer contents.
4. Is the elder/dependent adult able to prepare food for self? Is it accessible to the elder?

PATROL OFFICER RESPONSE - PHYSICAL ABUSE

I. GENERAL ISSUES WITH PHYSICAL ABUSE

Dependent adults and elderly persons may frequently exhibit signs of falls and accidents. These same signs may be indicators of physical abuse, especially when victims or suspects attempt to conceal their presence or offer inconsistent or irrational excuses for injuries. Investigators should consider the presence of any injury in their assessment of physical abuse cases.

A. A responding police officer should consider the following:

5. Does the victim need any medical services?
6. Provide for the well-being of the victim.
7. Can the victim recognize and communicate their most basic needs?
8. Gather evidence on which to base a successful prosecution of criminal behavior or indicates that there was no criminal act.
9. Determine if there is probable cause that an offense has been committed and make an arrest if appropriate.
10. Safety checks. Make sure that the home is reasonably cared for, no dangerous conditions in the home, food is provided and is not spoiled, and they have the necessary medical aids.
11. Determine if there is the presence or an available caretaker.

II. COLLECTION OF EVIDENCE OF PHYSICAL ABUSE

A. Bruises or welts

Older adults bruise more easily than younger people, and they are also at risk for a variety of injuries that lead to bruising. For this reason, it is often difficult to distinguish between bruises and other injuries that are accidental and those that were inflicted. There are, however, certain types of bruising or situations which may suggest abuse, including:

- Bilateral bruises are rarely accidental. These are bruises on both sides of the body - for example, on the top of both shoulders, both sides of the face or inside both thighs. Bilateral bruising to the arms may indicate that the older person has been shaken, grabbed or restrained. Bilateral bruising of the inner thighs may indicate rape or other types of sexual abuse.
- "Wrap around" bruises are also unlikely to be accidental. These are bruises which encircle the older person's arms, legs, or torso. They indicate that the older person has been physically restrained.
- The shape and location of bruising can tell a lot. Sometimes pattern marks are visible that resemble the instrument used to cause the bruising. Rope or strap marks, for example, may indicate inappropriate restraint.

B. Burns

- Caused by cigarettes, caustics, hot objects.
- Friction from ropes, chains or other physical restraints.

C. Other injuries or conditions

- Fractures, sprains, lacerations, and abrasions.
- Injuries caused by biting, cutting, poking, punching, whipping or twisting of limbs.
- Disorientation, stupor or other effects of deliberate over-medication.
- Dehydration or malnutrition without an illness related cause.

D. Obtain Statements

- Interview all potential witnesses and get contact information.
- Interview each witness (including victims) separately.
- If complications or questions arise, contact the detective who investigates elder abuse.
- Patrol officers are responsible for the basic interview.
- Document demeanor and apparent ability to recollect.

E. Photographs

- Photograph and/or video record all injuries and other evidence.
- Use ABFO scales (American Board of Forensic Odontology scales).
- Suspected crime scene.
- Full view of victim(s) and all injuries.
- Take photographs from several angles.
- Living conditions.
- One photograph of the victim's face for identification purposes.
- Any bloody or stained items.
- Any property damage.
- The alleged abuser's injuries or lack of injuries. This is especially important in instances of potential self-defense.

F. Document Physical Evidence

- Seize any object used to injure the victim (belt, shoe, cane).
- Seize any object involved in the alleged accident (iron, coffee pot, restraints).
- Take measurements pertinent to the suspected crime. (For example, measure the distance from the bed or couch to the floor where the victim allegedly fell).
- Medications: Book sample as evidence if material to the case and document them in your report.
- Alcoholic beverages and empty bottles, cans or other containers. May be necessary for abuse or neglect.
- Items used to restrain, gag or torture a victim.
- Letters, emails or any other form of communication between the victim and suspect that may be indicia of a crime.
- Clothing, sheets, blankets and other items that may have feces, urine, blood or other stains.

- Financial documents.
- Diaries that discuss abuse.

G. Medical Information

- Medical history.
- Medical records if available.
- Substance abuse by the victim's caretaker?
- Interview of medical personnel available, e.g. ambulance, paramedics, or doctors.

III. BEHAVIORAL INDICATORS OF VICTIM OR CARETAKER

A. Behavioral Indicators-Suspect

- Gives conflicted stories; offers inconsistent or implausible explanations for the victim's injuries.
- Is reluctant to let the victim be interviewed alone.
- Speaks for the victim.
- Handles the victim roughly or in a manner that is threatening, manipulative, or insulting.
- Alcohol or Drug abuse.
- Previous history of abuse.
- Appears indifferent or angry towards the victim.
- Reluctant to, or fails to, assist or attend to the victim.

B. Behavioral Indicators – Victim

Indications of abuse are not limited to visible wounds or injuries. The behavior of victim can reflect traits often associated with elder/dependent adult abuse. Presence of these indicators is not conclusive and should serve only to direct the focus of further investigation.

- Easily frightened, agitated, or trembling.
- Exhibiting denial.
- Hesitant to talk openly.
- Implausible explanations concerning injuries. Often when victims have injuries related to abuse, they are explained as the result of accidents. By carefully assessing the type of injury and the explanation, it is possible to discover inconsistencies. For example, a bruise which is explained as the result of an accidental fall may be on a part of the body which is unlikely to sustain impact in a fall.
- Confusion or disorientation.
- Fear of speaking for oneself in the presence of caretaker.
- Shame, fear, embarrassment.

INVESTIGATIVE FOLLOW-UP - PHYSICAL ABUSE

I. REVIEW THE INITIAL PATROL OFFICER RESPONSE

Ensure that Protocol Section Nine has been followed.

II. INITIAL CASE REVIEW AND ASSESSMENT

1. Is the victim safe? Is there a need for emergency housing?
2. Ensure that the case has been cross-reported. (See Protocol Section Two, Subsection II on cross-reporting.)
3. Make contact with the assigned APS social worker, Ombudsman or the Department of Justice (DOJ) elder abuse investigator for the possibility of a joint investigation.
4. Verify that the preliminary investigation has addressed all elements of the reported crime.
5. Is there further evidence to gather?
6. Determine the need for further interviews and photographs.
7. Determine custody status of the suspect(s). Has the suspect been interviewed?
8. If there is an unidentified suspect, or the suspect is at large, make appropriate law enforcement notifications and all-points-bulletins; coordinate with other agencies.

III. ADDITIONAL INVESTIGATIVE RESOURCES

- Criminal history data. (Local, state, national.)
- Department of Motor Vehicles.
- Department of Justice elder abuse investigators for prior referrals. (See Telephone Directory for phone numbers.)

IV. CORROBORATING INFORMATION

1. **Determine if medical personnel saw the victim.** Get a signed medical release for medical records. If the victim is conserved, get the conservator's signed release.
2. If possible, **obtain the names and contact information for all medical personnel who treated the victim** both now and in the past including private doctors and hospitals.
3. Interview treating physician(s) regarding the incident and obtain their educational/medical background in relation to the abuse, if appropriate. See Appendix B on suggested interview of a treating physician or expert witness.
4. **Statement of suspect(s).**
5. **Statements of witnesses:**
   a. Neighbors
   b. Friends
   c. Employer
   d. Medical and hospital personnel
   e. EMS
   f. Probation or parole officers
6. **Any reports with APS.**

7. **Evidence:**
   a. Pretext recorded conversations
   b. Photographs
   c. Line-ups
   d. Computer (i.e. hardware, data, e-mail, storage media)
   e. Current or previous 911 calls
   f. Seize and book any object used to injure the victim.
   g. Medications: Note all and book sample(s) as evidence if material to the case.
8. **Searches:**
   a. Consent
   b. Probation/Parole
   c. Exigency/Emergency
   d. Warrant
   e. Report on food conditions (samples, document expiration dates, inventory refrigerator contents)
   f. Photograph health and safety hazards
9. **Medications:** Obtain information regarding past and present medications taken by the elder, as well as the pharmacy from which they were obtained. This includes not only prescribed medications, but homeopathic and over the counter remedies as well.

V. SUSPECT INTERVIEW/INTERROGATION

An attempt should be made to interview all suspects. Interviews should be recorded, minimally on audio tape and optimally on video tape. The suspect should be interviewed by a detective or follow-up investigator, if available. (See Appendix A for suspect interview questions.)

PATROL OFFICER RESPONSE - FINANCIAL ABUSE

1. **Interview all parties**
   a. **Record all statements!** If that is not possible, try to quote the witness (particularly victim and suspect) whenever possible. Remember that the significance of some statements might not become apparent until later.
   b. **Determine the identity and role of the reporting party** – their relationship to the victim and any suspect, and the reporting party's motivation in reporting the crime.
   c. **Interview the victim separately,** away from the suspect(s). Remember that oftentimes the victim is emotionally, financially or otherwise dependent on the suspect and doesn't want anything bad to happen to the suspect. Keep in mind that the victim may be embarrassed or afraid to report the abuse to the police. Treat the victim in a delicate, compassionate way. (See Appendix B for specific questions for the victim.)
   d. **Exercise patience in the interview.** Remember that vulnerable victims may have difficulty responding quickly. Your efforts to hurry their responses may cause them to become less responsive and forgetful.
   e. **Take some time to get to know the victim.** Begin the interview with non-confrontational questions such as general questions about their background. Use that time to assess their comprehension level.
   f. **Avoid leading questions.** Let the victim explain their answers using their own words. Ask the victim to explain in as much detail as possible their understanding of the financial transactions in question and the reason the transaction(s) was/were made.
   g. Assure the victim that your primary concern is their welfare.
   h. Take detailed notes but <u>do not form or articulate in your written report or notes any determination regarding the victim's mental capacity</u>.
   i. Obtain sample signature of the victim.
   j. If complications or questions arise, contact an elder/dependent adult fraud detective.
   k. If the case involves the threat of continuing or imminent loss, or the threat of eviction or foreclosure, notify the APS worker or Ombudsman that the case should be referred to the Santa Clara County **FAST** team **(Financial Abuse Specialist Team)** by notifying APS.

NOTE: *If a decision is made to arrest the suspect prior to the District Attorney's Office issuing a complaint,* call the on-duty judge to have him or her *set higher bail pursuant to* ***PC 1269(c).***

2. Details in report

a. Determine dates of loss, how and when the loss was discovered and who discovered the loss.

   i. Document the victim's reaction to the loss, i.e. tears, disbelief, shaking, etc.

   ii. Document who told the victim about the loss, how and when.

b. Determine when and where to re-contact victim(s) and witness(es).

c. Describe the relationship between the victim(s) and suspect(s).

d. Identify all witnesses who may have relevant information.

e. Interview the suspect separately.

   i. Confirm method and amount of payment, scope of duties, gifts/loans from victim to suspect.

   ii. See Appendix A for specific questions for the suspect.

   iii. If the suspect resides with the victim, confirm whether the suspect pays rent to the victim, <u>or</u> whether the suspect free room and board in exchange for services provided to the victim.

3. Physical Evidence

a. Obtain written victim authorization to request bank records, credit card statements, real estate loan documents and other relevant financial information.

b. Collect any available and relevant documentary evidence including but not limited to the following:

   1. Documents related to money: bank statements, check registers, canceled checks, credit card statements, wills, trust, and Power of Attorney, deeds, promissory notes, stock certificates, brokerage account statements, and tax returns.

   2. Documents related to schedules and appointments: day planner, notes, monthly calendar, and anything else the victim uses to track their schedule.

INVESTIGATIVE FOLLOW-UP - FINANCIAL ABUSE

I. REVIEW THE INITIAL PATROL OFFICER RESPONSE

Ensure that Protocol Section Eleven has been followed.

II. INITIAL CASE REVIEW AND ASSESSMENT

A. Risk Assessment

1. Determine the level of risk of ongoing harm to the victim.
   a. Is the suspect still in the victim's home?
   b. Does the suspect still have access to the victim?
   c. Is the victim represented by a civil attorney?
2. Ensure that the case has been cross-reported. (See Protocol Section Two, Subsection II on cross-reporting.)

B. Case Review

1. If the case is being investigated jointly with another agency, continue ongoing communication with that other agency to assure effective collaboration and efficient use of resources. If another agency is not co-investigating the case, determine whether a joint investigation is appropriate.
2. Verify that the preliminary investigation has addressed all elements of the reported crime.
3. Determine the need for further interviews and collection of physical evidence. Try to locate neighbors, friends and relatives of the victim with relevant information regarding the victim's spending habits and mental capacity.
   a. Obtain factual descriptions that reflect changes in victim's mental state.
      i. Observations of the victim, e.g. forgetting when they last wrote a check or their neighbor's name.
4. Determine custody status of the suspect(s).
   a. If in custody/arraigned, is there a no contact order for victim?
5. If there is an unidentified suspect, or the suspect is at large, make appropriate law enforcement notifications and all-point-bulletins; coordinate with other agencies.

III. GATHER EVIDENCE

1. **Video tape of victim's statement (as soon as possible):**
   a. Videotape entire interview.
   b. Do not prompt witness.
   c. Videotape witness away from all other witnesses (e.g., family members, caretakers, friends or relatives.)
   d. See Appendix B for specific questions for the **victim.**
   e. Review tape to ensure clarity.

2. **Documentary evidence:**
   a. Checking account statements
   b. Savings account statements
   c. Credit card bills
   d. Real property deed of trust
   e. Promissory notes
   f. Wills, trusts
   g. Power of Attorney
   h. Stock certificates
   i. Brokerage account statements
   j. Tax Returns

3. **Prior Adult Protective Services or Ombudsman contacts**
   a. Contact APS and/or Ombudsman to gather information regarding victim and suspect.

4. **Use one of more of the following methods to gather additional evidence:**
   a. Consent.
   b. Probation/parole.
   c. Exigency/emergency.
   d. Search Warrants:
      i. Financial records of victim and/or suspect
      ii. Homes and offices
   e. Criminal history data (local, state, national) of suspect.
   f. Credit report on victim to see whether suspect has applied for credit in the victim's name.
   g. Title searches. If the victim owns real property, check with the County Recorder's office to identify any encumbrances on the property and to determine how title is held.
   h. Call victim's medical provider.
   i. Statements of witnesses: Neighbors, bankers, loan officers, and real estate agents, family members, doctors.

IV. SUSPECT INTERVIEW/INTERROGATION

An attempt should be made to interview all suspects. Interviews should be recorded, minimally on audio tape and ideally on video tape. The suspect should be interviewed by a detective or follow-up investigator, if available. All statements, including spontaneous statements, shall be made part of the offense report. See Appendix A for specific questions for the **suspect.**

1. Often, the suspect will be an excellent source for information regarding victim's mental state. Suspect will describe to you how much they have done to help the victim because the victim cannot take care of self.
2. Obtain Handwriting examples – have suspect sign their name as well as the victim's name.
3. Describe/determine suspect's access to victim's financial information.
4. Determine prior work history for the suspect (prior consistent behavior, criminal history or both).

V. ADDITIONAL CONSIDERATIONS

1. Consider the use of a press release in order to locate other victims.
2. For cases involving a suspect who holds a license with the Department of Health Services, notification must be made to the **California Department of Health Services.**
3. Meet with the Deputy District Attorney.
   a. As the investigation progresses and/or when seeking a complaint.
4. When you are ready to obtain complaint:
   a. Provide ALL financial records to the Deputy District Attorney.
   b. Copies of all police reports.
   c. Copies of all search warrants, evidence lists and any due diligence.
5. Ensure arrest warrants are served.

VI. FAST

The Santa Clara County Financial Abuse Specialist Team (FAST) was formed in 1999, and is composed of members from Adult Protective Services, the Office of the Public Guardian, the Office of the District Attorney and the office of County Counsel. The mission of the FAST team is to identify, investigate, prevent, and remedy financial abuse of elders and dependent adults in Santa Clara County. Rapid response, team confidentiality, and a multi-disciplinary approach are key components of the team. Speaking out against financial abuse, educating the public, and supporting legislative changes designed to deter financial exploitation of elders and dependent adults are team values. With these key aspects and motivated members, prompt and decisive action to prevent and remedy

financial abuse is accomplished. For further information, see the FAST Practice Guide located on the Santa Clara County Social Services Web Site: www.sccgov.org/aps or call APS: 408-975-4900.

PATROL OFFICER RESPONSE - SEXUAL ABUSE

I. OVERVIEW

A. Indicators of Sexual Abuse

Physical indicators of sexual elder abuse should direct investigators to search for other corroborating evidence. Many of these indicators cannot be identified without physical examination. Indicators may include the following:

- Torn, stained or bloody underclothing.
- Genital and/or anal infection, irritation, discharges or bleeding, itching, bruising or pain.
- Painful urination and/or defecation.
- Difficulty walking or sitting due to anal or genital pain.
- Psychosomatic pain such as stomach or headaches.
- Physical evidence of pornography or prostitution.
- Sexually transmitted disease.

B. Behavioral Indicators - The Victim

The embarrassment of recounting forced sexual activity often results in the refusal of an elderly victim to report and describe the crime. The following indicators are often present in (but not limited to) cases of sexual abuse:

- Inappropriate, unusual or aggressive behavior or curiosity about sexual matters.
- Self-exposure.
- Intense fear reaction to an individual or people in general.
- Extreme upset when assisted with bathing or other physical caregiving.
- Direct or coded disclosure of sexual abuse.
- Fecal soiling.
- Depression or poor self-esteem.
- Eating disturbances (overeating and under-eating).
- Tears, phobias, compulsive behavior.
- Self-destructive behaviors such as head-banging or self-biting.
- Regressive behavior such as bedwetting or thumb sucking.
- Sleep disorders (nightmares, fear of sleep, excessive sleeping).

C. Behavioral Indicators - The Suspect

An individual who is sexually abusing or exploiting an elderly person may take extreme measures to ensure the activity is concealed. This may be exhibited through such behaviors as the following:

- Over protectiveness, dominance, hostility toward others.
- Inappropriate sex-role relationship between victim and suspect.
- Social isolation.

II. CONTACT WITH VICTIM

The initial interview should be limited to establishing corpus of the offense. Santa Clara County's policy is to minimize the number of interviews of the victim, and a specially trained detective should conduct the detailed follow-up interview.

The patrol officer should consider the following:

1. Use a comfortable room or location. Officers should make every effort to put the victim at ease. In some cases involving a dependent adult the officer may need to establish that the victim understands the difference between the truth and a lie, time and spatial concepts, etc. The suspect(s) shall not be present. Non-suspect relatives/conservators/caretakers should not be present in the immediate area. If they are, they should be out of visual range of the victim.
2. It is important to establish only the basic information of the allegation.
3. Determine the nature of sexual abuse allegations (oral/genital, digital/genital, etc.).
4. Determine **JURISDICTION, TIME(s)** and **DATE(s)** of offenses.
5. Determine **SUSPECT(s)** involved and the relationship to the victim
   a. If a suspect is a stranger, obtain the best possible description of suspect and vehicle. Immediately broadcast a Be on the Lookout (BOL). Immediately canvass the area, noting all license plates. Notify investigative personnel on details of offense and solicit their input.
6. Crime scene: Prior to proceeding with evidence collection, determine if there is a need for a search warrant. A conservator may give consent if the elder/dependent adult has an assigned conservator.
7. Evidence collection:
   a. If in a residence or long-term care facility, secure, process and store any items of evidentiary value. Collect and bag separately items such as bedding, tissues and clothing. Look for items such as photographs, pornography or letters from suspect to victim, etc.
   b. If in a vehicle, impound and seal it unless there is time-critical evidence that will lead to capture (exterior fingerprints, indicia, etc.). Leave processing for follow-up investigators.
   c. If outdoors, secure the area. Proceed in sequential search pattern. Photograph evidence prior to collection with scale device and draw a sketch.

8. ***Photograph and when possible videotape the crime scene. Photograph any visible victim injuries. Photograph suspect's injuries and suspect's appearance. If possible, photograph all parties involved.***
   a. Coordinate with Medical/SART staff and ensure that all victim injuries are photographed for evidentiary purposes.
9. Other Interview Factors:
   - Care should be taken to determine if there are additional victims.
   - Determine if there are additional outstanding suspects and what their relationship is to the victim.
   - If there are multiple victims, consult with investigators to ensure that they are aware of the potential from multi-disciplinary interviews.
   - If the victim(s) are developmentally disabled, identify their caretaker(s) and with which care program they are associated.
   - Identify any other potential witnesses or persons to whom the victim may have made disclosures.
   - All attempts should be made to video and audio record all interviews.

III. SEXUAL ABUSE EVIDENCE (SART EXAMINATION)

1. **During all hours:** Obtain check for sexual assault exam, as required by your department policy. Notify APS or OMB. Prior to leaving for Valley Medical Center, contact should be made with the on-duty Sexual Assault Response Team (SART) nurse to discuss the case. The victim should then be transported to the Valley Medical Center (VMC) Emergency Room where you will meet with the examiner and crisis counselor. If the sexual abuse occurred more than 72 hours earlier, follow-up investigators should determine the necessity of the SART examination.
2. Take custody of sexual assault evidence, reports, etc., and handle as biological evidence. Store appropriately.
3. There will be no sexual assault exam if the victim refuses cooperation and otherwise appears competent to give or refuse to give informed consent.
4. If the victim does not appear competent to give or refuse informed consent and does have a conservator, successor trustee or a valid Durable Power of Attorney for Health Care, consent should be obtained from the victim's conservator or Attorney in Fact for Health Care. APS should be contacted immediately.

5. If the victim does not appear competent to give or refuse informed consent and does not have a conservator or Attorney in Fact for Health Care, an emergency Court Order or search warrant should be obtained. APS should be contacted immediately.
6. If the victim's conservator or Attorney in Fact for Health Care is a suspect, an emergency Court Order or search warrant should be obtained. APS should be contacted immediately.

V. SUSPECT

A. In-custody; follow-up detective available:

When taking the suspect into custody, the patrol officer should avoid obtaining a statement or reading Miranda rights. The interview of the suspect and Miranda are the responsibility of the follow-up detective. Any spontaneous admissions shall be recorded in the crime report. The follow-up detective should be notified and made aware of the need to conduct an interview with a Miranda waiver. Standard rape kit evidence shall be collected if appropriate.

B. In-custody; misdemeanor cases or no follow-up detective available:

The goal in all cases is to obtain a Post-Mirandized statement from the suspect(s). In the case of an in-custody (or cite and release) misdemeanor, the patrol officer should try to obtain this statement. When in doubt as to how to proceed, consult a supervisor.

C. Out-of-custody:

Every attempt should be made to identify the suspect, suspect's residence, workplace, vehicles, associates, etc. Determine if the suspect is a PC 290 registrant or on probation/parole. Consult with investigators prior to taking the suspect into custody.

A victim of a violation of PC 261, 261.5, 262, 286, 288a, or 289 has the right to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys, unless law enforcement determines the presence of that person would be detrimental to the purpose of the interview. A victim shall be notified of this right orally or in writing prior to the commencement of the interview. (PC §§ 679.04, 264.2).

INVESTIGATIVE FOLLOW-UP - SEXUAL ABUSE

I. REVIEW THE INITIAL PATROL OFFICER RESPONSE

Ensure that Protocol Section Thirteen has been completed.

II. INITIAL CASE REVIEW AND ASSESSMENT

1. Determine the level of risk of ongoing harm to the victim.
   a. Is the suspect still in the victim's residence?
   b. Does the suspect still have access to the victim?
2. Ensure that the case has been cross-reported. (See Protocol Section Two, Subsection II on cross-reporting.)
3. Verify that the preliminary investigation has addressed all elements of the reported crime.
4. Determine the need for further interviews, photographs, and collection of physical evidence. Try to locate neighbors, friends and relatives of the victim with relevant information regarding the victim.
5. Determine custody status of the suspect and determine if they have been interviewed.
6. Interview suspect if suspect has not been previously interviewed or if additional questions are appropriate.
7. If there is an unidentified suspect or the suspect is at large, make the appropriate law enforcement notifications and all-points bulletin.
8. Coordinate with other agencies, including Adult Protective Services, Public Guardian, Ombudsman and Department of Justice, as necessary.

A. Additional Investigative Resources

1. Criminal history data (local, state, national)
2. DOJ's Serious Habitual Offender Program (SHOP) and P.C. 290 (registrants) files
3. Department of Motor Vehicles
4. Court records

B. Corroborating Information

1. Videotape of victim's statement (as soon as possible):
   a. Do not prompt victim.
   b. Videotape victim away from all other witnesses such as family members, caretakers, friends or relatives.
   c. Review the tape to ensure clarity.

C. Documentary evidence:

1. Review physical evidence collected from the scene to supplement photograph.
   a. Sexual Assault Response Team (SART) exam evidence.

D. Searches:

1. Consent of residence or area where assault occurred.
2. Probation or Parole search area under suspect's control for evidence of the crime.
3. Search warrant (absent consent).

E. Determine suspect's access to victim at the time of the reported offense.

F. Statements of any witnesses (audio or videotaped, if possible).

G. Evidence:

1. Biological (e.g. semen, saliva, blood, hair).
2. Medical Records.
3. Pretext recorded conversations. When appropriate, it is strongly recommended that the pretext recorded conversation occur prior to any suspect interview. Detailed information regarding the suspect's statements, reactions, and/or silence during the pretext recorded conversation should be included in the offense report.
4. Photographs.
5. Photo Line-ups.
6. Trace evidence (e.g., fibers).
7. 911 tape(s).

III. SUSPECT INTERVIEW/INTERROGATION

An attempt should be made to interview all suspects. Interviews should be recorded, minimally on audio tape and ideally on video tape. The suspect should be interviewed by a detective or follow-up investigator, if available. All statements, including spontaneous statements, shall be made part of the offense report.

PATROL OFFICER RESPONSE - SUSPICIOUS DEATH/HOMICIDE

I. INITIAL RESPONSE

A. Follow standard first aid protocol; preservation of life is the first priority.

B. Administer first aid and call the Fire Department and paramedics, unless there are obvious signs of death, such as post-mortem lividity, rigor mortis or putrefaction.

C. Make mental notes of the scene, particularly things which will change in time, such as condition of the victim (body temperature, pallor), appearance of the scene, any medications, temperature of residence, thermostat settings, and canvassing of neighborhood.

D. Continue with the investigative steps listed in the following sections after relinquishing responsibility for the victim's care to fire personnel or paramedics.

II. ELDER/DEPENDENT ADULT DEATH PROCEDURES

Any unexplained or suspicious elder or dependent adult death should be treated as a homicide until a complete investigation, including autopsy, has been performed.

A. Promptly take necessary steps to secure and control the immediate death scene (the location where the victim was first discovered unresponsive); preserve all items of evidence which may assist in determining the cause of death. Document all people (including emergency personnel) who have entered or left the crime scene.

B. Identify and record the names of all persons who may be involved in the incident.

C. Make appropriate field notes which will serve as preparation for the required reports documenting the circumstances of the incident from the time the victim was last seen alive through discovery and revival efforts.

D. If the agency has an available detective response, notification should be made immediately.

E. The on-call homicide Deputy District Attorney should be contacted immediately. (Call County Communications at (408) 299-2501and ask to be put in contact with for the on-call homicide DDA.)

F. Obtain an initial statement from the victim's most recent conservator or caretaker, concerning the circumstances of the victim's death. If there is more than one caretaker, interview them separately and as soon as possible.

G. Obtain initial statement from RP or person who found/discovered the victim's body.

H. Interview person who last saw the victim alive.

III. NO IMMEDIATE DETECTIVE RESPONSE

A. Define and secure the area where the victim was discovered, as well as any other area that may contain evidence of the cause of death. Contact the Medical Examiner-Coroner's Office prior to removing or manipulating the body. Whenever possible, crime scene personnel of the department or the Santa Clara County Crime Lab should refrain from seizing or moving evidence before the ME/C has had an opportunity to view the scene and collect evidence necessary for their work.

B. Obtain information concerning the victim:

1. Name, date of birth, sex, race.
2. Physical appearance and condition.
3. Name, address, phone number of conservator or caretakers.
4. Medical history, including prior injuries and accidents, pre-existing medical conditions, and a signed medical release from a conservator or caretakers wherever possible.
5. Description of the resuscitation attempts, including the name of the person who attempted the resuscitation or who pronounced death.

C. Obtain the names, addresses, and telephone numbers of possible witnesses or other persons who may be able to furnish information concerning this incident.

D. Canvass the neighborhood.

E. Conduct a walk-through of the immediate and surrounding areas where the victim was discovered in order to:

1. Visualize what the area may have looked like before the incident took place.
2. Identify potential evidence which may assist in determining the cause of death.
3. Note medications type & quantity. ***Coordinate with the Medical Examiner / Coroner.***
4. Diagram plain view and photograph the immediate and surrounding areas where the victim was first discovered and any other location where the victim was known to be prior to death.

IV. END OF LIFE OPTION ACT

Effective June 9, 2017, the End of Life Option Act (codified in Health and Safety Code section 443 et. Seq.) authorizes an adult who meets certain qualifications, and who has been determined by their attending physician to be suffering from a terminal disease, as defined, to make a request for a drug prescribed pursuant to the provisions of the Act, for the purpose of ending their life. The Act is very specific regarding the steps that the patient must follow and the steps the attending physician must follow. The Act creates two new felonies: PC 443.17(a) for altering or forging a request for the drug or concealing or destroying a withdrawal of a request for the drug, both with intent or effect of causing death; and PC 443.17(b) for coercing a person to ingest the drug or destroying without consent a withdrawal of a request for the drug, both with intent or effect of causing death. If the responding officer confronts evidence to suggest that the Act was followed or intended to be followed:

1. **Contact the on-call homicide DDA** even if the situation confronting responding officers suggests that the death occurred pursuant to the Act.

2. **Do not take anyone into custody.** Determining whether the Act was appropriately followed will require a full investigation and review of the deceased person's medical history which will take time and would likely necessitate the release of anyone taken into custody.

3. **Contact the attending physician if possible so that they can certify the death.** Refrain from contacting the Medical Examiner / Coroner unless and until efforts to contact the attending physician have been exhausted or deemed impossible. True "End of Life Option Act" deaths are not ME/C cases, and the ME/C does not wish to take jurisdiction in such cases. If the ME/C takes jurisdiction in a case where an individual voluntarily ended their own life, the ME/C must deem the cause of death to be suicide, which in some cases will contravene the intentions of the deceased. In other words, in instances where the attending physician cannot be located and the ME/C takes legal custody of the body, the ability to have the underlying disease (as opposed to "suicide") listed as the cause of death may be compromised.

INVESTIGATIVE FOLLOW-UP - SUSPICIOUS DEATH/HOMICIDE

I. REVIEW THE INITIAL PATROL OFFICER RESPONSE

Ensure that Protocol Section Fifteen has been followed and that the On-Call Homicide Attorney and Chief Medical Examiner/Coroner have been notified.

II. CONDUCT THE FOLLOW-UP INVESTIGATION

A. Define and secure the area where the victim was discovered, as well as any other area that may contain evidence which will assist in determining the cause of death.

B. Evidence should be seized and documented by crime scene personnel of your department or the Santa Clara County Crime Lab.

C. Obtain information concerning the victim:

1. Name, date of birth, sex, race.
2. Physical appearance and condition of the victim.
3. Name, address, phone number of caretaker(s). (A custodial history of the victim for the week preceding the death should be obtained, listing and identifying all persons who provided care of the victim adult during that time period.)

D. Medical history of the victim, including prior injuries, accidents and preexisting medical conditions.

E. Obtain a signed medical release from the conservator/responsible party/power of attorney wherever possible.

F. Description of the resuscitation attempts, including the name(s) of the person(s) who attempted the resuscitation, or who pronounced death.

G. Interview witnesses or other persons who may be able to furnish information concerning this incident.

H. Conduct a walk-through of the immediate and surrounding areas where the victim was discovered in order to:

1. Visualize what the area may have looked like before the incident took place.
2. Identify potential evidence which may assist in determining the cause of death.
3. Search for vomit, urine, blood, saliva, and any signs of clean up.
4. Diagram and photograph the immediate and surrounding areas where the victim was first discovered and any other location where the elder/dependent adult was known

to be prior to death. Take relevant measurements, such as: the heights of all chairs, tables, counters, beds; height and width of the stove and bathtub. Photograph all heat sources.

I. **If the victim has been scalded,** document the water temperature immediately when it comes out of the spigot. Also measure the highest temperature the water reaches out of the tap.

J. **Collect and document evidence:**

1. For example, sheets, pillow cases, bedding, clothing, diapers, air temperature of the residence, clothes from hamper or washing machine, weapons, belts, irons, chemicals, prescribed drugs, rope, etc.
2. Photograph medicine cabinet.
3. Coordinate review, handling, and custody of all relevant pill bottles, prescription drugs and medications with the investigator from the Coroner's Office.
4. Prepare a thorough report.

K. **Describe who discovered the victim,** and what actions were immediately taken by that person.

1. Describe the circumstances which led to the discovery of the victim.
2. Describe the location where the victim was found by the responding officer or other emergency personnel; if the victim was initially found elsewhere and moved before emergency personnel arrived, describe that location.
3. Include phone number of victim's doctor(s).
4. Note the behavior of the individuals who are present.
5. Obtain preliminary information of all recent hospital and doctor visits.
6. Obtain a detailed statement from the victim's most recent caretaker concerning the circumstances of the victim's death, actions, location and who was responsible for and observed the victim for the week preceding the death.
7. Secure 911 tape(s).
8. Obtain phone records of the victim.
9. Have the suspect reenact the event; measure all relevant distances; video tape if possible.

L. **Avoid a premature arrest:**

1. Maintain a relationship with the suspect(s) that will allow continuing non-custodial interrogation until definitive information is obtained from the Coroner's Office

identifying all injuries with corresponding time limits. Audiotape all statements if at all possible.

2. Read Miranda Rights during all custodial interrogations.
3. Contact District Attorney's Office for status conference the first work day after investigation commences.
4. Make sure that all information concerning the victim's death is relayed to coroner prior to autopsy.

M. Attend autopsy at Coroner's Office and take photos and collect evidence not retained by Coroner's Office.

N. If death occurred during stay in a nursing home or in an acute care hospital contact the Department of Health Services. (See Telephone Directory for phone numbers.)

O. If death occurred during stay in a residential care facility for the elderly or an adult residential facility, contact the Department of Social Services, Community Care Licensing. (See Telephone Directory for phone numbers.)

P. Call APS with suspicious death cases.

1. APS will evaluate cases for discussion with the Elder Death Review Team.

COMPLAINT FILING

I. OVERVIEW-DISCOVERY AND ISSUING

A. **Penal Code 1054.1 requires disclosure of:**

1. The names and addresses of persons the prosecutor intends to call as witnesses at trial.
2. Statements of all defendants.
3. All relevant real evidence seized or obtained as a part of the investigation of the offense charged.
4. The existence of a felony conviction of any material witness whose credibility is likely to be critical to the outcome of the trial.
5. Any exculpatory evidence.
6. Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the prosecutor intends to offer in evidence at the trial.

B. It is the policy of the Santa Clara County District Attorney's Office that such **evidence shall promptly be given to the defense** in order to facilitate an early plea of guilty.

II. INVESTIGATING OFFICERS' DUTIES AT THE COMPLAINT STAGE (FELONIES)

A. Investigating officers who wish to obtain a felony complaint should meet with and discuss the case with the elder/dependent adult physical abuse issuing Deputy District Attorney in the Family Violence Unit or with the elder/dependent financial abuse Deputy District Attorney on the Economic Crimes Unit.

B. Investigators should bring the following materials:

1. Two copies of all reports including supplemental reports. (One copy should have names, addresses, and telephone numbers of witnesses and victims redacted.)
2. Copies of all photographs.
3. Copies of audio and video tapes.
4. Defendant's rap sheet (local, state and FBI).
5. Victim's medical records (if available).
6. Copies of all financial records.

III. INVESTIGATING OFFICER'S DUTIES AT THE COMPLAINT STAGE (MISDEMEANORS)

A. Investigating officers who wish to obtain an out-of-custody misdemeanor complaint should meet and discuss with the issuing Deputy District Attorney from the District Attorney's Family Violence Division or Elder/Dependent Financial Abuse Division.

IV. SEXUAL ASSAULT CASES ARE FILED BY THE DISTRICT ATTORNEY'S SEXUAL ASSAULT UNIT

A. District Attorney's office responsibilities:

1. The police reports will be filed with the defendant's discovery packet. The Deputy District Attorney reviewing the case will determine whether any reports should initially be held back.

2. The discovery unit of the District Attorney's Office will duplicate audio and video tapes, photographs, medical records and all other discoverable materials for the defendant's attorney after a request from the Deputy District Attorney assigned to the case.

V. REPORTS

A. Reports required:

1. Initial crime report.
2. Cross-report pursuant to Protocol Section Two, Subsection II.
3. Supplemental reports, if applicable.

B. A crime report shall always be written for:

1. Suspected abuse.
2. Neglect, self-neglect, or endangerment.
3. Unfounded/unsubstantiated abuse.
4. Any act which results in a non-accidental injury.

C. Details in Report:

1. Determine jurisdiction.
2. Determine how to re-contact victim(s) and witness(es).
3. Describe the relationship between the victim(s) and offender(s).
4. Describe injuries.
5. Describe unfit homes.
6. Articulate the danger in endangerment cases.

D. Suspect's Background

- Psychiatric history or hospitalization.
- Drug/alcohol abuse.
- Special medications.
- Criminal history.

VI. SUPPLEMENTAL REPORTS

The investigating officer shall provide copies of all supplemental reports (including lab reports and autopsy reports) to the Deputy District Attorney assigned to the case. It shall be the responsibility of the District Attorney's Office to provide copies to the defendant's attorney.

VII. ADDITIONAL CONSIDERATIONS

1. Consider the use of a press release.
2. Determine previous residences for all involved parties (prior consistent behavior, criminal history or both).
3. Determine previous and current relationships (spouses, ex-spouses, co-habitants, or other caretakers).
4. Meet with the elder/dependent adult physical abuse Deputy District Attorney on serious cases when seeking a complaint regarding physical abuse.
5. Meet with Elder Fraud DDA on serious cases when seeking a complaint regarding financial abuse.
6. For cases involving a suspect who holds a license with the Department of Health Services, notification must be made to the **California Department of Health Services.**

VIII. LONG TERM CARE: NURSING HOME/RESIDENTIAL CARE

There is concurrent jurisdiction between the Santa Clara County District Attorney's Office and the State Attorney General in nursing home cases. The family violence unit leader will be informed at the outset of any investigation of a nursing home so that the investigation and prosecution of the nursing home or its employees can be coordinated with the California State Attorney General office.

PROTECTIVE ORDERS

I. INTRODUCTION

Restraining orders are available to **anyone** who has been harassed, physically abused, or had their health and safety endangered by another. There are several types of protective orders including:

A. Emergency Protective Restraining Order (EPRO)

An Emergency Protective Restraining Order (EPRO) is issued by a Duty Judge at any time, whether or not court is in session. It is intended to function as a short-term temporary restraining order if a person is in immediate and present danger of abuse or neglect and is requested by a police officer in urgent circumstances. The EPRO is authorized by a Duty Judge after receiving a telephonic application from the requesting officer. An EPRO is valid for five court days or seven calendar days, providing the protected person sufficient time to obtain a Temporary Restraining Order. The issuance of an EPRO is not precluded by an arrest.

B. Temporary Restraining Order (TRO)

A Temporary Restraining Order (TRO) is obtained in civil court by a protected person upon submission of an application, including an affidavit explaining the need for the order. A TRO is valid for a limited period of time, usually about a month, until a court hearing is conducted to receive testimony from both the restrained and protected persons. A protected person may receive assistance from a victim advocacy agency in applying for a TRO.

C. Order After Hearing

An Order After Hearing is issued by a civil court judge and requires a person to refrain from doing a particular act or acts. If no time period is noted, these orders remain in effect for three (3) to five (5) years and may be extended beyond the five years upon request of the protected person.

D. Criminal Protective Order (CPO)

A Criminal Protective Order is a restraining order issued in a criminal case pursuant to PC 136.2 where there is a likelihood of harassment of the victim by the defendant. CPOs are issued and remain in force while prosecution is pending, and will be re-issued at the time of sentencing. Orders are typically issued to run concurrently with the period of probation. However, in cases involving domestic violence and sexual assault, and in cases where the victim and suspect are related within two degrees of consanguinity, the order may remain in effect for up to 10 years after sentencing, regardless of whether probation is granted or denied.

II. OBTAINING EMERGENCY PROTECTIVE ORDERS

A. Emergency Protective Restraining Orders (EPRO) are available to persons who are or have been victims of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking (including workplace violence or civil harassment) and provide supporting court and law enforcement processes.

B. When responding to any elder abuse or domestic violence incident, **an officer shall advise the victim of the availability of an Emergency Protective Restraining Order (EPRO) in every case.**

1. In arrest situations, the following procedures should be implemented:

a. When a person is arrested based upon an allegation of a recent incident of abuse or threat of abuse or in danger of stalking, and the officer can assert reasonable grounds to believe that a person is in immediate and present danger of domestic violence or elder abuse, which would require restraint if the defendant were to be released from custody (e.g., bail, OR, 849, or no PC found), then the police officer shall be required to explain the EPRO to the victim and ascertain if the victim desires one. Where the officer fears for the safety of the victim, but the victim does not desire an EPRO, an investigating officer shall request one on behalf of the victim. (Family Code 6275). The officer shall advise the victim that an EPRO has been issued. Every effort should be made to provide the victim with a copy of the EPRO at the earliest opportunity.

b. If an EPRO is appropriate, the application should be completed. The officer should note on the application whether or not the suspect has been arrested, or will be arrested when located. During normal court hours, the police officer should call the Family Court at (408) 534-5601 and ask to speak to a judge available to process an EPRO. After 5 PM on weekdays, on weekends, and holidays, the police officer should call County Communications at (408) 299-2501 and ask for the Duty Judge to call back. The police officer should leave the phone number where they can be reached. Officers should ensure that the telephone equipment is operational before requesting that the Duty Judge utilize that number. If the Duty Judge is not available, the officer should ask to speak to another Judge.

Note: The Duty Judge may elect to call County Communications at 408 299-2501 and request that the phone call be transferred to the number where the officer is located. This will protect the privacy of the Duty Judge's home phone number if the Duty Judge is calling into a private residence.

2. In a non-arrest situation where an EPRO is desired, the officer should complete an application then contact the Duty Judge or Family Court for evaluation and issuance of the EPRO.
3. If issued, EPRO legislation requires an officer to make a reasonable attempt to serve the restrained party. If they are present or can be readily contacted, serve the order and complete the Proof of Service on the form. Document whether and how the order was served in the police report. Persons subject to RO's are **required to turn over all firearms when told to do so by law enforcement. Refer to Firearms Relinquishment Protocol if necessary.** Copies of the EPRO should be distributed as follows:

Original	→	Court
Yellow	→	Restrained Person
Pink	→	Protected Person
Goldenrod	→	Law Enforcement Agency

4. Once an EPRO is issued, it is the responsibility of the police agency to promptly file the EPRO with the Family Justice Center Courthouse at 201 North First Street, San Jose CA 95113.
5. A judicial officer may also issue an EPRO if a peace officer asserts reasonable grounds to believe that a person is stalking another person as defined in PC 646.9 (authority PC 646.91).
6. Upon requesting an EPRO the officer should immediately contact the Adult Protective Services.

III. ENFORCEMENT OF RESTRAINING ORDERS

When an incident involves an alleged violation of a restraining order assigned officers will adhere to the following procedure:

A. Verify the Order.

1. Check that the order is on file with the Sheriff's Office and Police Department, or that the complainant has a copy of the order in her or his possession.
2. Ensure the judge signed the order and there is a court stamp or seal.
3. Check that the order is still valid in duration and time.
4. Determine if there is proof of service or prior notice to the subject, or if the subject was in court when the order was made.

5. Determine the terms of the restraining order.
6. If the subject has left the scene, prepare a case report. Tell the complainant the case number and advise on follow-up criminal procedure.
7. If the officer cannot verify the subject was served or had prior knowledge restraining order, or if service is made upon a party at the scene or while in custody then:
   a. Inform the subject of the terms of order;
   b. Admonish the subject that a subsequent violation of the order will result in arrest. If, after admonishment, the subject does not conform to the order, make an arrest.
   c. Supplement with Department copy of the order with a report that the subject was admonished.
   d. Verify a court restraining order when the complainant states that one exists.
8. If the officer cannot verify the order, it may be enforced through a private person's arrest procedure. If it is the officer's opinion that the elements of the crime do not exist, the officer may then consider a release per Penal Code Section 849(b).

B. Warrantless Arrests Allowed. Officers shall make arrests for any violation of a restraining orders issued under CCP 527.6, PC 136.2, 646.91, 1203.097, or WI 213.5 whether or not they occur in the officer's presence, so long as probable cause exists to believe a violation occurred. (PC 836(c)(1), PC 13701)

C. Verbal Notice of Order Allowed. Verbal notice by the officer of the terms of the order is sufficient. However, in order to successfully prosecute a later violation of the order, the officer who delivered verbal notification must be able to testify that the subject notified was positively identified as the restrained person (FC 6383(e)). Within one business day of service, the law enforcement agency serving the protective order shall enter the proof of service directly into the DOJ Domestic Violence Restraining Order System (DVROS), including the officer's name and employing agency and shall transmit the original proof of service to the issuing court (FC 6380(d)). Once the order is served, an arrest may be made if the suspect refuses to comply with the terms of the order.

D. Suspect Not Present. If a Restraining Order violation has occurred and the suspect is not present, the officer will submit a crime report of the appropriate violation and the officer will attempt to locate the suspect and arrest pursuant to Section 836(c) PC. Under NO CIRCUMSTANCES shall an officer fail to prepare a crime report on a restraining order violation simply because the suspect is no longer present.

E. Multiple Restraining Orders in Effect. When multiple restraining orders exist involving the same protected person and the same restrained person, the order that is most restrictive takes precedence. If there is a criminal order and a civil order, equally restrictive, enforce the criminal order. (Non-conflicting terms of the civil order remain in effect.) If there are multiple, equally restrictive civil orders, enforce the most recent order.

F. 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.

G. Encouraged Violation of Restraining Orders. 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.

H. Firearms. When an officer 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, the officer will make reasonable efforts to:

1. Inquire of the restrained person, if present or contacted during the investigation, if they possess firearms.

2. Inquire through the CLETS, and the Consolidated Firearms System (CFS) to determine if any firearms are registered to the restrained person.

3. Inquire of the protected person whether the restrained person possesses any firearms.

4. Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search.

5. Law enforcement is authorized to request the immediately surrender of firearms when a person is served with a domestic violence protective order, rather than having to wait 24 hours for the person to self-surrender the firearms.

6. If a restraining order prohibits firearms possession, the officer shall make record in the crime or incident report of:
   i. Inquiries made to determine if the restrained person possesses any firearms.
   ii. The results of efforts made to locate and seize any unlawfully possessed firearms.

7. All law enforcement agencies shall have the responsibility of receiving and storing firearms surrendered pursuant to a restraining order for residents in their jurisdiction.

8. Each county law enforcement agency having responsibility for the investigation of domestic violence shall adopt policies and procedures addressing the receipt, storage and release of firearms surrendered or seized pursuant to a restraining order.

RESOURCES AND SERVICES

I. VICTIM SERVICES UNIT OF THE DISTRICT ATTORNEY'S OFFICE

A. Introduction

Local law enforcement has the duty, as stated in Government Code Section 13959, to inform victims of crimes of the existence of local victim centers. As of 2015, the Victim Services Unit is housed within the District Attorney's Office. Government Code Section 13968, subdivisions (d) and (e) direct law enforcement agencies to provide a copy of the crime report to the Victim Services Unit for use in applying for victim compensation. Victim Service Unit Advocates will never give a copy of the crime report to any source other than the State Board of Control for verification purposes. Mandated services provided by the Victim Services Unit are described in Penal Code Section 13835. Services are available to all victims of crime, and eligibility for services is determined by the occurrence of a crime and not by whether or not a criminal complaint is filed.

B. Services Provided

1. **Emergency assistance**

   Crisis counseling, companionship for court appearances, transportation, food, shelter, clothing or other emergency services are available.

2. **Community and resource referral**

   Counseling, medical and dental assistance, legal assistance, clean-up of minor home repair for residential burglary, follow-up contact to assess victim status & needs, etc.

3. **Victim of crime compensation**

   Assist victims in applying for compensation from the State Victims of Crime Compensation Program for such things as medical and dental costs necessitated by the crime, wage loss if applicable, funeral/burial costs to family if victim dies as a result of the crime, assist victim in preparation of Victim Impact Statement and request for restitution from the offender, etc.

4. **Property return**

   Assist victim with obtaining property held as evidence by law enforcement.

5. **Orientation to the criminal justice system**

   Explain criminal justice proceedings to victim and provide support person during proceedings.

6. **Case status**

   Inform victims of status of criminal case and of sentence at conclusion of criminal case, help victim in requesting information from the state prison system for notification as to release of offender.

C. Department of Justice: Bureau of Medi-Cal Fraud & Elder Abuse (BMFEA)

1. **Scope of Authority:** BMFEA is a unit within the California Department of Justice, Attorney General's office. It has concurrent statutory authority with local agencies for the investigation and prosecution of crimes against elders and dependent adults in government funded healthcare facilities. It maintains a dedicated unit called the Elder Abuse Prosecution Unit (EAPU) which is comprised of investigators (Special Agents), Investigative Auditors and prosecutors (Deputy Attorney Generals). It is divided into three sub-units:

   a. **Violent Crimes Unit** (VCU) which investigates crimes of violence including homicides, sexual assaults, rapes, batteries and neglect as well as fiduciary crimes committed against persons within facilities. Most of these offenses are referred to local prosecutors. The VCU maintains a rapid response program in which agents are on call and able to respond to any crime scene 24 hours a day/7 days a week.

   b. **Facilities Enforcement Team** (FET) which investigates and prosecutes both criminal and civil actions against facilities when they are determined to be responsible for the neglect or abuse of patients and residents.

   c. **Operation Guardians** consists of BMFEA staff and local agencies working as task forces which conduct surprise onsite inspections of healthcare facilities. Each Operation Guardians team member inspects the selected facility for noncompliance and/or violations of state and/or federal laws and regulations for which they are statutorily responsible. Each team member either has independent statutory authority to conduct onsite inspections without court-issued orders or plays a critical support/response role providing expertise, background data or prosecution of crimes discovered during the inspection.

2. **Services Provided:** BMFEA will accept referrals from, as well as, assist other law enforcement, prosecuting agencies and other agencies with such cases. Assistance includes personnel (agent, investigative auditor, and attorney) and equipment as appropriate.

3. **Tracking of Cases:** BMFEA maintains a computer tracking system of reported abuse and neglect cases occurring in healthcare facilities; includes information on the facilities and persons involved in the offenses as well as case status and dispositions. Reports are accepted from any sources, but are primarily from law enforcement, the Department of Health Services Licensing and Certification and Ombudsman programs.

4. **Training:** Per mandate by state and federal law BMFEA provides training to law enforcement, prosecuting agencies, and other state and local agencies regarding the investigation and prosecution of elder and dependent adult abuse and neglect.

D. Adult Protective Services

1. **Program Overview.** Each California County is mandated to have an Adult Protective Services (APS) agency to investigate abuse and neglect of elder adults (65 years and older) and dependent adults (18-64 who are disabled and are unable to advocate for themselves.) APS receives reports of abuse and conducts investigations of elders and dependent adults who live in private homes, apartments or hotels.

   Many professions who work with elders or dependent adults, including law enforcement are mandated reporters under state law, and are required to report suspected abuse or neglect. Please see Welfare and Institution Code Section 15630.

   Mandated reporters are required to report suspected abuse or neglect by phone as soon as possible and follow up with a completed written report on the State of California form 341 (SOC 341) within two days. Failure to report abuse of an elder or dependent adult is a misdemeanor, punishable by not more than six months in the county jail or by a fine of not more than $1,000, or both imprisonment and fine. Any mandated reporter who willfully fails to report abuse where the abuse results in death or great bodily injury, may be punished by up to one year in county jail, a fine of up to $5,000, or both imprisonment and fine.

   As of January 2017, the APS 24/7 Abuse Report hotline prioritizes Law Enforcement calls and there is a specialized number for Law Enforcement calls only: 408-975-4800.

   Law Enforcement can also call the main APS 24/7 Abuse Report hotline: 408-975-4900 and select option 1 for priority.
   APS social workers can be contacted for urgent elder and dependent adult abuse case coordination after business hours.

   California Welfare and Institutions Code governs the reporting and investigation of elder and dependent adult abuse. Under this law, the County's APS is charged with the responsibility of recording and evaluating reports of abuse as they are received from the community. The law gives APS the responsibility for investigating all abuse that takes place outside of licensed long-term care facilities and specifies that APS cross report to law enforcement agencies whenever cases of suspected criminal activity are reported to APS. Similarly, law enforcement agencies cross report such cases to APS and there is interagency coordination between law enforcement and APS in the investigation of reports.

   Services:

   When a report of abuse or neglect is received, APS's goal is to create a stable environment where the individual can safely function without requiring on-going intervention from the APS program. Services provided by APS include responding to reports of known or suspected abuse or neglect, conducting an investigation, and arranging for the delivery of services from available community agencies.

The APS program is not intended to provide long-term, on-going case management services. However, APS offer appropriate services in accordance with individual needs and acceptance. APS is not intended to interfere with the life style choices of elders or dependent adults, or to protect those individuals from the consequences of their choices. For this reason, an elder or dependent adult who has been abused may refuse or withdraw consent at any time to preventive and remedial services offered by APS.

However, APS is required to conduct an investigation when there is an allegation that a crime has been committed, regardless of whether the elder or dependent adult wants the investigation to go forward or not.

APS abuse investigations focus on:

- physical, cognitive, psychological, functional and socio-economic status;
- living environment;
- support systems and strengths
- risk for ongoing abuse/neglect and safety assessment
- developing a service plan which may include arranging for emergency services, emergency shelter or medical care.

APS social workers may provide referrals or linkage to community services, benefits, advocacy and medical professionals. They also may arrange for direct services such as Meals on Wheels, and transportation. APS Social Workers also coordinate with family, friends and other professionals involved with the elder or dependent adults to meet their needs. APS may request assistance from law enforcement for welfare checks and/or criminal investigations.

APS can provide tangible support services to victims of abuse. This might include funds for temporary emergency food, shelter, and clothing.

E. Public Administrator/Guardian/Conservator: Department of Aging and Adult Services Office of the Public Administrator/Guardian/Conservator:

1. **Program Overview:** The Divisions of the Public Administrator/Guardian/Conservator (PA/G/C) are part of the Department of Aging and Adult Services of Santa Clara County's Social Services Agency. Typically, the Public Guardian is responsible for those clients under court ordered probate conservatorship; the Public Conservator is responsible for those persons under a mental health conservatorship; and the Public Administrator is responsible for administering decedent estates in the event that there is no other capable legal party to do so. Each of the three administrators are appointed by and accountable to the Superior Court of Santa Clara County to provide a broad range of services to those people who are mentally and/or physically incapable of managing their personal needs and financial affairs.

The service delivery structure is designed to provide care and services to all clients without regard to age, sex, language, national origin or economic status. The clients served fit into the following criteria: (1) persons suspected of being or judicially determined to be unable to provide food, clothing or shelter due to mental illness; (2) persons suspected of being or judicially determined to be unable to manage financial resources or resist fraud or undue influences; (3) persons suspected of being or judicially determined to be unable to provide for personal needs of health, food, clothing or shelter; (4) Decedent Estates; (a) with no personal representative whose property is subject to loss, waste, injury or misappropriation; (b) when so ordered by the court; (c) if no other person has higher priority; or, (d) determined by the Public Administrator to be proper for the Public Administrator.

The mission of the Conservatorship division is to safeguard the lives and property of conservatees who cannot care for themselves, and to do so with the least possible restriction on the conservatees' lives. When a person is gravely disabled because of mental illness, injury, physical illness or dementia, and no one is available to assume responsibility for the functions of daily living, the PG/C may be determined by the court to be appropriate for handling the personal, medical and financial affairs of the person. Referrals come from hospitals (medical and psychiatric), Adult Protective Services, Public Health nurses, attorneys, banks, concerned friends and neighbors. When a referral is received, an initial screening and evaluation is done. If the case appears to be appropriate for PG/C handling, an investigator investigates the referral, verifies the facts and searches for a less restrictive solution that may meet the person's needs. If the PG/C finds that a conservatorship is necessary, and there is no other person who is willing or able to serve in that role, the PG/C will petition the Court to be appointed conservator. If the PG/C is appointed as conservator, the client is assigned a Deputy Public Guardian who makes decisions regarding medical issues, legal matters, where to live, how assets are utilized, ensures all income is received and all bills paid with the goal of protecting and acting in the best interest of the client. In providing these client services, the PG/C interacts with County Counsel, Mental Health, Public Health Nursing, Veterans Administration, the County Jail, and the Social Security Administration.

F. Long Term Care Ombudsman Program (OMB) at Catholic Charities

1. **Program Overview:** The Long-Term Care Ombudsman Program (OMB) is mandated by federal law (Older Americans Act) and state law (Welfare and Institutions Code) to receive and investigate all complaints, including allegations of abuse, made by or on behalf of residents in long term care facilities, i.e. Nursing Facilities (nursing homes) and Residential Care Facilities for the Elderly (Board and Care, Assisted Living). Ombudsmen have legal access to these facilities and confidential access to the residents 7 days/week.

   In Santa Clara County, financial abuse of a resident in a Skilled Nursing Facility (SNF) is investigated by APS.

   In addition, the Long-Term Care Ombudsman Program has other unique state mandates to witness Durable Powers of Attorney for Health Care and Property Transfers (to certain parties associated with the long-term care facility and fair market value more than $100) for residents in nursing homes.

California's elder and dependent adult abuse law requires the Ombudsman Program to receive, respond to, and investigate any report of alleged or suspected abuse of any resident in any long-term care facility, including (Skilled) Nursing Facilities, Residential Care Facilities for the Elderly (60+), and Adult Residential Facilities (1859 years).

All alleged or suspected abuse occurring in long term care facilities must be reported to either the Ombudsman Program or local law enforcement.

OMB has strict federal confidentiality requirements that may impact the extent of the information of such allegations cross-reported to the appropriate licensing agency and to the Attorney General's Bureau of Medi-Cal Fraud and Elder Abuse Prosecution Unit and Law Enforcement.

The Long-Term Care Ombudsman Program's role is to be a visible and vocal community advocate for these frail, chronically ill, primarily elderly residents with emphasis on the protection of the residents' rights and promotion of quality of life and quality care.

TRAINING

Penal Code: Section 13515 (Requirement to train)

Welfare and Institutions Code, Chapter 11: Section 15600 through Section 15675, covers the elder and dependent adult abuse laws.

Each law enforcement agency is encouraged to provide training for members of the agency.

1. Each law enforcement agency shall provide training for members of the agency.
2. The goals of the training are to inform officers of:
   a. The elder and dependent adult abuse laws;
   b. The law enforcement department's elder and adult abuse policies and procedures;
   c. The signs and dynamics of elder and dependent adult abuses;
   d. Patrol officer investigative techniques;
   e. District Attorney elder and dependent adult abuse policies;
   f. The Adult Protective Services elder and dependent adult abuse policies;
   g. The Public Guardian Offices' elder and dependent adult abuse policies.
3. Additional training should include written bulletins, videotapes, verbal reminders, and updates during patrol briefings.
4. The Chief of Police, or designee, shall ensure the review of the department's training policies annually and make any revisions deemed necessary.

APPENDIX A: SUGGESTED QUESTIONS FOR SUSPECT/CARETAKER IN CASES INVOLVNG ELDER/DEPENDENT ADULT ABUSE

I. INTERVIEWING A POTENTIAL SUSPECT

A. Techniques for Interviewing Suspects

1. Advise the suspect of their Miranda rights if conducting a custodial interrogation.
2. Encourage the suspect to relate the incident in their own words.
3. Note the suspect's attitude or demeanor during the interview.
4. Determine the relationship between the suspect, victim, and witnesses.
5. Look for behavioral indicators of abuse.
6. Note statements that are inconsistent with other findings and evidence.
7. If handwriting is an issue, collect handwriting samples (financial crimes).
8. Show disputed documents to the suspect one at a time and record their response to each one.
9. If the suspect admits to abuse, ask them to specify precisely what they did and record it.
10. Do not communicate hostility or disbelief.

B. Questions for Caretakers

1. Background Questions:
   a. Name
   b. Address
   c. DL Number
   d. Contact Information
2. Relationship with the victim:
   a. How do you know the victim? For how long?
   b. Who lives with the victim?
   c. Do you live here? If yes, for how long?
   d. Do you pay rent or do you receive room and board in exchange for services you perform for the victim?
   e. Are there any other relatives living in the area? Do they visit and how often?

3. Current Medical Care:

a. Is the victim currently under a doctor's care?

b. What is the doctor's name?

c. When was the last time the victim saw a doctor?

d. Did you take the victim to the doctor? If not, who did?

4. Medical History:

a. Is there any recent or past history of accidents, illness, disease, or mental health issues regarding the victim?

b. Explain details and dates of any medical diagnosis.

c. Does the victim take any medications? If yes, how often and how much?

d. Where is the medication stored?

e. Who gives the victim their medication(s)?

f. Describe the victim's current mental state. Are they slow, forgetful, trusting, easily influenced?

5. Legal Issues:

a. Is the victim conserved? If so, when and by whom?

b. Does anyone have valid Power of Attorney over the victim?

c. Does the victim 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?

d. Who is the victim's attorney? Name and contact information.

e. Are you the victim's conservator? If so, since when?

f. Do you have a valid Power of Attorney over the victim? If so, since when?

6. Background on Becoming the Caretaker:

a. How did you get to be the caretaker?

b. Who hired you?

c. What was your training for this job?

d. How long have you been the caretaker?

e. How are you coping with the caregiving responsibilities?

7. Current Duties:

a. Are you the only caretaker?

b. Who, if anyone, assists you in caring for the victim? What is their name? What do they do specifically?

c. What are your duties as it relates to:

1. Medication

2. Toilet assistance
3. Cooking/cleaning services
4. Shopping
5. Paying bills

8. Victim's Financial Situation:
   a. What is the victim's monthly income and from what sources? (Social security, pension?)
   b. What are the victim's monthly expenditures?
   c. Is the victim in debt or at financial risk?
   d. Where does the victim bank and is anyone joint on the accounts?
   e. Does anyone else have access to the victim's bank accounts, ATM, credit cards, etc. and why?
   f. What are the current balances on the victim's banking & credit card accounts?
9. Suspect's Involvement with Victim's Finances:
   a. What are you paid? How are you paid? How often are you paid?
   b. Does the victim owe you any money? If so, how much and what for?
   c. Who is responsible for the victim's finances/bills? Who pays the bills?
   d. If you pay the bills, how long have you been doing so? Does anyone else help?
   e. Do you make any deposits of your own money into the victim's account? If so, why, how much and how often?
   f. 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?
   g. Do you have access to the victim's credit cards? Have you ever had permission to use the victim's credit card?
   h. Have you or someone else withdrawn money from any account or financial institution on behalf of the victim? If so, why, what for, did you have permission and was it paid back?
   i. Have you or the victim signed any documents recently? i.e.; loans, deeds, promissory notes, POA, etc.?
   j. Have you written any checks for the victim and had them sign the check?
   k. Have you ever had permission to sign the victim's name?

l. Who writes the checks (to pay the victim's expenses)?

m. Who, if anyone, do you talk to before making a financial decision on behalf of the victim?

n. Has the victim given you any gifts, money or loans?

o. Do you have any promissory notes showing loans to you from the victim or from the victim to you?

10. Suspect's Current Financial Situation:

a. Are you employed anywhere else? Where and how long?

b. Do you have any bank accounts? How many and where?

c. Is the victim joint on any of your accounts?

d. Have you received an inheritance recently or won any money?

e. Have you or anyone else taken a trip or vacation with the victim or at the victim's expense? If so, who, when, where, and how much did it cost?

f. What are your sources of income? What are the total amounts per month? Any recent inheritances, unusual winnings?

11. Ask Specific Questions about the Current Case:

a. Obtain as many details as possible.

b. If appropriate, show the suspect any documents to verify signatures.

12. Concluding Questions:

a. 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.

b. If needed, what is the best way to contact you in the future?

c. Is there anything else you think I should know or want to say about this case?

C. Questions for Relatives

1. Background Questions:

a. Name

b. Address

c. DL Number

d. Contact Information

2. Relationship to the Victim:

a. What is your relationship to the victim?

b. How often do you see the victim adult?

c. When was the last time you saw them?

3. Who is the Caretaker for the Victim?

a. Do you perform any duties, errands, cleaning, cooking, etc., on behalf of the victim in exchange for financial consideration, housing, car payment, etc.?

b. Are there any other relatives living in the area?

c. How often do you or any of them visit the victim?

d. Who takes care of the victim's cleaning, cooking, shopping, etc.?

4. Current Medical Care:

a. Is the victim currently under a doctor's care for anything?

b. What is the doctor's name?

c. When was the last time the victim saw a doctor?

d. Did you take the victim to the doctor? If not, who did?

e. Describe the victim. Are they slow, forgetful, trusting, and easily influenced?

5. Medical History:

a. Is there any recent or past history of accidents, illness, disease, or mental health issues regarding your relative?

b. Explain details and dates of any medical diagnosis.

c. Does the victim take any medications? If yes, how often and how much?

d. Where is the medication stored?

e. Who gives the victim their medications?

6. Legal Issues:

a. Is the victim conserved? If so, when and by whom?

b. Does anyone have a valid Power of Attorney over the victim?

c. Does the victim 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?

d. Who is the victim's attorney? Name and contact information.

e. Does the victim have any insurance policies? Who is the beneficiary?

7. Victim's Financial Situation:

a. What is the victim's monthly income and from what sources?

b. What are the victim's monthly expenditures?

c. Is the victim in debt or at financial risk?

d. Where does the victim bank and is anyone joint on the accounts?

e. Does anyone else have access to the victim's bank accounts, ATM, credit cards, etc. and why?

f. Do you make any deposits of your own money into the victim's account? If so, why, how much and how often?

g. Have you or someone else withdrawn money from any account or financial institution on behalf of the victim? If so, why, what for, did you have permission and was it paid back?

h. Who is responsible for the victim's finances, who pays the bills, signs checks, etc.?

i. Have you or the victim signed any documents recently? i.e.; loans, deeds, promissory notes, POA, etc.? Have you written any checks for the victim and had them sign the check?

j. Does the victim owe you any money? If so, how much and what for?

8. Suspect's Financial Situation:

a. Are you employed? Where and how long?

b. Do you have any bank accounts? How many and where?

c. Is the victim joint on any of your accounts?

d. Have you received an inheritance recently or won any money?

e. Have you or anyone else taken a trip or vacation with the victim or at the victim's expense? If so, who, when, where, and how much did it cost?

9. Ask Specific Questions about the Current Case:

a. Obtain as many details as possible.

b. If appropriate, show the suspect any documents to verify signatures.

c. If appropriate, ask about living conditions.

d. If appropriate, ask about how the victim suffered their injuries.

10. Concluding Questions:

a. 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.

b. If needed, what is the best way to contact you in the future?

c. Is there anything else you think I should know or want to say about this case?

D. Questions for suspects who may be contractors, landscapers, handyman, etc.

1. Background Questions:

a. Name

b. Address

c. DL Number

d. Contact Information

2. Background on Suspect's Business:

a. How long have you been in business? Are you a sole proprietor or incorporated? Number of employees?

b. Have you entered into any type of verbal or written contract for services or home repairs with the victim? If so, describe the dates, necessity of work and pay received. Obtain copies of contract or receipts.

c. Do you have a valid state contractor's license for the work performed? If so, contractor's license number and bonding company.

d. Has any disciplinary action ever been taken against your license? If so, when, where and what for?

e. Do you maintain separate financial accounts for your business? i.e.; a business checking or savings accounts versus personal banking accounts.

f. Do you maintain a business office or work from your home? Obtain a business card and/or document all contact information.

g. 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?

3. Information on the Current Case:

a. How were you contacted for the job? i.e.; such as through neighborhood solicitation, phone book, word of mouth, or friend of the victim?

b. Was a building permit obtained prior to beginning the job? Obtain copies of all.

c. 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?

d. Did you employ anyone to help you with the job? If so, their names and contact information.

e. Did you complete the job to the victim's satisfaction and were you paid?

f. Were you paid in cash or by check?

g. Have you completed similar work in the area or neighborhood? When and where?

h. Is there any future business pending between you and the victim?

4. Concluding Questions:

a. If needed, what is the best way to contact you in the future?

b. 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.

c. Is there anything else you think I should know or want to say about this care?

APPENDIX B: SUGGESTED QUESTIONS FOR VICTIM OF ELDER/DEPENDENT ADULT ABUSE

II. INTERVIEWING VICTIMS

A. Special concerns when interviewing older victims:

1. Interviewing older victims can require 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:

   a. Speak slowly and clearly, and be patient in waiting for a response.

   b. Keep your weapon out of sight--a weapon can be frightening.

   c. Address the victim by name, but do not use first names as this is considered disrespectful by many elderly persons.

   d. Indicate immediately that you are there to help.

2. Conduct a structured interview using predetermined questions. This is a way to obtain the facts needed to proceed with case without losing ground to confusion the victim may be feeling.

3. 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?"

4. For hearing impaired persons, eliminate as much background noise as possible and use visual cues.

5. Ask if the person is having difficulty hearing you, and whether they have a hearing aid that would help.

6. Written communication can be used.

7. Some visually impaired people may not look directly at you because they see better in their peripheral zones.

8. Tell the victim what to expect during the investigation.

9. Minimize the number of interviews and the number of people present.

10. Allow the victim to describe the incident in their own words.

11. 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.

12. Avoid unnecessary pressure.

13. Acknowledge the victim's anxiety and try to discern its cause. For example, you may say, "You seem anxious. Are you concerned that your relative will find out that you have talked with me?"

14. Keep it simple. Phrase questions in clear, concise fashion.

15. Keep questions short.

16. Ask open-ended questions that encourage further discussion.

17. Accept and use victim's terminology and language for acts, body parts, etc.

18. Avoid influencing the victim's account of the alleged offense.

19. Even if the victim appears to be somewhat confused, do not discount the information.

20. Make every effort to obtain the fullest possible response before relying on information from others.

21. If you need another person to assist in communicating or providing information for the victim, conduct the conversation in the victim's presence and look for signs of corroboration from the victim (e.g. nodding in agreement). Do not discuss the victim as if he or she is not in the room.

22. Do not discount a complaint because the victim is unwilling to cooperate.

23. Do not argue with the victim.

24. Assess the likelihood of retaliation. If a threat is present, arrange for protection.

25. Determine whom the victim first told about the abuse/neglect/fraud.

26. Show the victim records or other documents that suggest abuse. Record their response to each one that is in dispute.

27. Conclude the interview in such a fashion that the victim feels free to contact the investigator again.

28. Ensure that the victim is capable and has the means for contact. If not, take measures to facilitate follow-up with the victim.

29. Determine whether the witnesses are likely to be intimidated, made to feel guilty, or threatened with reprisal for providing testimony.

B. 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. Be calm and reassuring as people with diminished capacity are very sensitive to feelings. Pay close attention to their reactions; emotional responses may reveal what they cannot express in words.

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).
- 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 their 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.

If you find a lost and confused elderly person, call Medic Alert at Safe Return, **1-800-5721122** to share information, even if the "wanderer" you find bears no pertinent identifying data.

C. Cultural Issues

Our communities are becoming more diverse. Since no cultural/ethnic group is immune from elder abuse, it is likely that the victim and/or perpetrator in an elder abuse case may be from a culture different than your own. In order to effectively intervene in these situations, it is important to have an understanding of the cultural factors that might influence the victim or the victim's family.

Cultural factors may inhibit the reporting of elder abuse crimes or cooperation with the police if the crimes are reported:

- 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 permission of families.

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 with any older victim/witness, begin by addressing a person formally, using their 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.

D. 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.

E. Fears that the Victim May Have

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

F. Interview Questions for Financial Abuse

1. Background Information:
   a. What is your name?
   b. Do you have any close relatives? (Identify nature of relationship, names, addresses, phone numbers of any relatives.)
   c. Who are some of your close friends? (Identify names, addresses, phone numbers and length and nature of relationship.)
   d. Are you close to any of your neighbors? (Identify names and addresses.)
   e. Does anyone visit you on a regular basis?
   f. When is the last time you saw a doctor? Who is your doctor? Who took you to your last doctor's appointment?
   g. Have you been diagnosed with any medical condition?
2. Housing Questions:
   a. Where do you live?
   b. Do you own your home? How long? Who is on the title of the house?
   c. How long have you lived in your current residence?
   d. Does anyone live with you? (Identify names and relationships.) Do they pay rent?

e. Do they provide any services for you in exchange for staying there?

3. Caretaker:

a. Do you have a caretaker?

b. How long has caretaker been involved with your care?

c. Does caretaker get paid? If yes, how much?

d. Who takes care of bills or finances?

e. Who signs the checks?

f. Do you drive? (Who takes victim to appointments, shopping, etc.?)

g. When did you stop driving?

h. Does anyone other than the suspect provide any services for you? If so, describe.

4. General Finance questions:

a. Who handles your finances?

b. Who writes the checks?

c. Who pays the bills?

d. Who does your taxes?

e. What is your monthly income? (Amount and sources of income.)

f. What are your monthly expenses? (Describe some of them.)

g. Have you ever given anyone permission to sign your name? Use your credit card?

h. Place their name on any of your banking accounts?

i. Have you signed any documents lately? If so, what were they?

j. What are the balances on your bank accounts? Credit card accounts?

k. Do you have a will or trust? Does anyone have a valid Power of Attorney for you?

l. Do you have an attorney? (Name and phone number, if available.)

5. Suspect Related Questions:

a. How long have you known the suspect? How did you meet the suspect?

b. Does the suspect provide any services for you? If so, describe. Who hired the suspect?

c. How is the suspect compensated for any services provided?

d. Did you ever give the suspect any loans or gifts (monetary or otherwise)?

e. Does the suspect owe you any money?

f. Do you owe the suspect any money?

g. Is there anyone else who can do the things the suspect currently does for you?

6. Case Specific Questions:

a. Do you recognize these documents?

b. Do you recognize these signatures?

c. Did you agree to the transaction(s)? Why?

d. Who spoke to you before you agreed to the transactions(s)?

e. What was your understanding of the agreement?

G. Interview Questions for Neglect or Physical Abuse

1. Background Information:

a. What is your name?

b. Do you have any close relatives? (Identify nature of relationship, names, addresses, phone numbers of any relatives.)

c. Who are some of your close friends? (Identify names, addresses, phone numbers, and length and nature of relationship.)

d. Are you close to any of your neighbors? (Identify names and addresses.)

e. Does anyone visit you on a regular basis?

f. When is the last time you saw a doctor? Who is your doctor? Who took you to your last doctor's appointment?

g. Have you been diagnosed with any medical condition?

2. Housing Questions:

a. Where do you live?

b. Do you own your home? How long? Who is on the title of the house?

c. How long have you lived in your current residence?

d. Does anyone live with you? (Identify names and relationships.) Do they pay rent?

e. Do they provide any services for you in exchange for staying there?

3. Caretaker:

a. Do you have a caretaker?

b. How long has caretaker been involved with your care?

c. Does caretaker get paid? If yes, how much?

d. Who takes care of bills or finances?

e. Who signs the checks?

f. Do you drive? (Who takes elder to appointments, shopping, etc.?)

g. When did you stop driving?

h. Does anyone other than the suspect provide any services for you? If so, describe.

4. General Finance Questions: (If there is physical abuse, there may also be financial abuse).

   a. Who handles your finances?

   b. Who writes the checks?

   c. Who pays the bills?

   d. Who does your taxes?

   e. Do you have a will or trust? Does anyone have a valid Power of Attorney for you?

   f. Do you have an attorney? (Name and phone number, if available.)

5. Suspect Related Questions:

   a. How long have you known the suspect? How did you meet the suspect?

   b. Does the suspect provide any services for you? If so, describe. Who hired the suspect?

   c. How is the suspect compensated for any services provided?

   d. Did you ever give the suspect any loans or gifts (monetary or otherwise)?

   e. Does the suspect owe you any money?

   f. Do you owe the suspect any money?

   g. Is there anyone else who can do the things the suspect currently does for you?

6. Case Specific Questions:

   a. Neglect:

      1. Who is generally responsible to take care of you?

      2. How long have they taken care of you?

      3. Who helps you with the following activities:

         a. Shopping.

         b. Preparing meals.

         c. General Hygiene (showers, bathing, etc.).

         d. Paying the bills including utilities.

         e. Cleaning the residence.

4. How long have you been in this position? (If the person is immobile go into details regarding their physical location.)
5. When was the last time that you saw a doctor?
6. How long have you had these physical conditions? (Go through each injury.)
7. Will you sign a medical release form? If yes, then have the victim sign the form (If the victim has a valid Power of Attorney, then have that person sign the form instead.)

b. Physical Abuse:

1. Did you have any prior injuries before this incident?
2. Were these injuries reported? If not, why not?
3. What happened to you during the current incident?
4. Who did this to you?
5. When did this happen?
6. Did you see a doctor regarding the injury?
7. What Doctor did you see?
8. Will you sign a medical release form? If yes, then have the victim sign the form (If the victim has a valid Power of Attorney, then have that person sign the form instead.)

DIRECTORY A: TELEPHONE DIRECTORY

AGENCY	PHONE	FAX
Adult Protective Services (APS) Mon-Fri 8:00 a.m. - 5:00 p.m. and 24/7 Line	(408) 975-4900 (800) 414-2002	(408) 975-4910
California Department of Developmental Services	(916) 654-1690 (408) 374-9960	Not Available
California Department of Health Services Licensing & Certification, Info. Hotline Licensing & Certification Division • Hospitals-Nursing Homes & Clinics • Nursing Home Complaints Medi-Cal Field Office Medi-Cal Fraud Investigations	(408) 277-1784 (800) 236-9747 (408) 277-1784 (800) 554-0348 (408) 758-3600 (800) 822-6222	(408) 277-1141 (916) 324-2392 (408) 277-1032 (408) 277-1032 (408) 295-9248
California Department of Justice Attorney General's Office Bureau of Medi-Cal Fraud and Elder Abuse	(800) 722-0432	Not Available
California Department of Mental Health	(800) 704-0900	(916) 654-3198
California Department of Social Services Community Care Licensing Division	(800) 952-5253	Not Available
Catholic Charities Long Term Care Ombudsman (OMB) (Evenings/Weekends) Hotline/Emergencies	(408) 468-0100 (408) 944-0567 (800) 231-4024	(408) 944-0275 (408) 944-0275 (408) 944-0776
Child Interview Center (CIC)	(408) 277-5688	(408) 289-9649
Coroner/Medical Examiner	(408) 793-1900	(408) 793-1934
County Communications (Primary call-back number for after hours)	(408) 299-2501	Not Available
County of Santa Clara County Counsel	(408) 299-5900	(408) 292-7240
County of Santa Clara Department of Correction – Admin. Booking	(408) 299-2306	Not Available
County of Santa Clara Social Services Agency Department of Family & Children Services Emergency Response (ER) for Child Protective Services (CPS)- ER ▪ Central County ▪ North County ▪ South County	(408) 299-2071 (650) 493-1186 (408) 683-0601	Not Available Not Available Not Available

DIRECTORY A: TELEPHONE DIRECTORY

AGENCY	PHONE	FAX
County of Santa Clara Office of the District Attorney	(408) 299-7400	(408) 287-5076
County of Santa Clara Valley Medical Center - Main number	(408) 885-5000	Not Available
County of Santa Clara Valley Medical Center Emergency Psychiatric Unit	(408) 885-6100	(408) 885-6117
County of Santa Clara Victim Services Unit	(408) 295-2656	(408) 289-5430
Department of Aging & Adult Services (DAAS)	(408) 975-4848	(408) 975-4850
Adult Protective Services	(408) 975-4900	(408) 975-4910
In-Home Supportive Services	(408) 975-4899	(408) 975-4820
Public Admin/Guardian/Conservator	(408) 577-2500	(408) 577-2506
Senior Nutrition Program	(408) 975-4860	(408) 975-4830
Deputy District Attorneys		
Cherie Bourlard (Financial)	(408) 792-2519	Not Available
Victoria Robinson (Physical)	(408) 808-3799	Not Available
Family Court Restraining Order Help Center	(408) 534-5600	Not Available
Veteran Services Office	(408) 918-4980	Not Available

DIRECTORY B: SANTA CLARA COUNTY LAW ENFORCEMENT AGENCIES

AGENCY	PHONE NUMBERS
California Highway Patrol 2020 Junction Avenue San Jose, CA 95131	(408) 467-5400 (408) 467-5407 (Fax)
Campbell Police Department 70 N. 1st Street Campbell, CA 95008	(408) 866-2101 (408) 379-7561 (Fax)
Gilroy Police Department 7301 Hanna Street Gilroy, CA 95020	(408) 846-0300 (408) 846-0339 (Fax)
Los Altos Police Department #1 N. San Antonio Road Los Altos, CA 94022	(650) 947-2770 (650) 947-2704 (Fax)
Los Gatos/Monte Sereno Police Department 110 E. Main Street (Admin) Los Gatos, CA 95030	(408) 354-5257 (408) 354-0578 (Fax)
Milpitas Police Department 1275 N. Milpitas Blvd. Milpitas, CA 95035	(408) 586-2400 (408) 586-2488 (Fax)
Morgan Hill Police Department 16200 Vineyard Blvd. Morgan Hill, CA 95037	(408) 776-7300 (408) 776-7328 (Fax)
Mountain View Police Department 1000 Villa Street Mountain View, CA 94041	(650) 903-6395 (650) 962-0180 (Fax)
Palo Alto Police Department 275 Forest Avenue Palo Alto, CA 94301	(650) 329-2413 (Dispatch) (650) 321-3067 (Fax)
Santa Clara Police Department 601 El Camino Real Santa Clara, CA 95050	(408) 615-4700 (408) 248-0276 (Fax)

DIRECTORY B: SANTA CLARA COUNTY LAW ENFORCEMENT AGENCIES

AGENCY	PHONE NUMBERS
Santa Clara County DA Investigators 70 W. Hedding Street San Jose, CA 95110	(408) 792-2888 (408) 286-2522 (Fax)
Santa Clara County Sheriff's Office 55 W. Younger Street San Jose, CA 95110	(408) 808-4705 (408) 808-4730 (Fax)
Santa Clara County Probation Dept. 2314 N. First Street San Jose, CA 95131	(408) 435-2004 (408) 944-9748 (Fax)
San Jose Police Department Family Violence Center 1671 The Alameda, Suite #100 San Jose, CA 95126	(408) 277-3700 (408) 287-7181 (Fax)
San Jose Police Department Financial Crimes Unit 201 W. Mission Street San Jose, CA 95110	(408) 277-4521 (408) 277-2814 (Fax)
San Jose Police Department Homicide Unit 201 W. Mission Street San Jose, CA 95110	(408) 277-5283 (408) 971-9214 (Fax)
San Jose Police Department Sexual Assault Unit 201 W. Mission Street San Jose, CA 95110	(408) 277-4102 (408) 971-8031 (Fax)
San Jose State University Police Department One Washington Square San Jose, CA 95192	(408) 924-2234 (408) 924-2373 (Fax)
Stanford Department of Public Safety 711 Serra Street Stanford, CA 94305-7240	(650) 723-9633 (650) 725-8485 (Fax)

DIRECTORY B: SANTA CLARA COUNTY LAW ENFORCEMENT AGENCIES

AGENCY	PHONE NUMBERS
State Parole 909 Coleman Avenue San Jose, CA 95110	(408) 277-1821
Sunnyvale Department of Public Safety 700 All America Way Sunnyvale, CA 94088	(408) 730-7120 (408) 737-4942 (Fax)

GLOSSARY AND LAWS: DEFINITIONS

Abuse of an Elder or a Dependent Adult:	"Abuse of an elder or a dependent adult" means either of the following: Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. (W&I 15610.07) (Criminal Physical Abuse: Physical: 368(a), (b), (c))
Care Custodian:	"Care custodian" means an administrator or an employee of any of the following public or private facilities or agencies, or persons providing care or services for elders or dependent adults, including members of the support staff and maintenance staff: Staff of a 24-hour health facility; clinic; home health agency; agencies providing publicly funded in-home supportive service; independent living centers; office of the long-term care ombudsman; county welfare departments; offices of public conservators; public guardians; court investigators; Adult Protective Services; and any other protective, public, sectarian, mental health, or private assistance or advocacy agency or person providing health services or social services to elders or dependent adults. [For a complete list of persons defined as "care custodians" please see (W&I 15610.17)] A care custodian is statutorily mandated to report abuse of elder or dependent adults. (W&I 15630)
Caretaker:	Any person who has the care, custody, or control of, or who stands in a position of trust with, an elder or a dependent adult. Penal Code Section 368(i). See also W&I Section 15656 (d).
***Conservator of the Estate:**	A conservator of the estate may be appointed by the Court for a person who is substantially unable to manage his or her own financial resources or resist fraud or undue influence. Probate Code Section 1801(b)
***Conservator of the Person:**	A conservator of the person may be appointed by the Court for a person who is unable to provide properly for his or her personal needs for physical health, food, clothing, or shelter. Probate Code 1801(a) [Note: The Office of the Public Guardian or a private individual/conservator may be appointed by the Court to serve as the conservator of both the person and estate]

Dependent Adult:	Any person between the ages of 18 and 64, who has physical or mental limitations which restrict their ability to carry out normal activities or to protect their rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities are diminished because of age. (W&I Section 15610.23)
Elders:	Any person 65 years of age or older. (W&I Section 15610.27)
Financial Abuse:	There are several circumstances under which a person can be said to have engaged in "financial abuse." Only one is outlined here; for a complete definition of financial abuse please see Welfare and Institutions Code section 15610.30. "Financial abuse" means a situation in which a person, including, but not limited to, one who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property, to any wrongful use, or with the intent to defraud. (W&I 15610.30) (Criminal Financial Abuse: 368 (d), (e))
Long term Care Facility:	A "Long term care facility" means any of five different types of facilities. A description of each type of facility is provided here in an abbreviated manner. For a complete definition, please see Welfare and Institutions Code Section 15610.47 and the provisions of the Health and Safety Code Section referenced after each description. (1) Any facility licensed to provide skilled nursing, nursing, intermediate care and rehabilitation treatment for clients including those who are developmentally disabled, congregate living health services and/or pediatric day health and respite care. (W&I 15610.47, Health and Safety Code Section 1418) (2) Any licensed or unlicensed "community care facility." A community care facility means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services to various populations including the physically handicapped, mentally impaired, incompetent persons and abused or neglected children. A "community care facility" includes the following types of facilities: "residential facility," "adult day care facility," "therapeutic day services facility," "foster family agency," "foster family home," "small family home," "social rehabilitation facility," "community treatment facility," "full -service adoption agency," (W&I 15610.47, Health and Safety Code Section 1502 which defines all of the above-referenced facilities) Any swing bed in an acute care facility, or any extended care facility. (W&I 15610.47) Any "adult day health care facility." An "adult day health care facility" means an organized day program of therapeutic, social, and health activities services provided to elderly persons with functional

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Neglect:	"Neglect" means either of the following: The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise. (Neglect includes but is not limited to the following: failure to assist in personal hygiene or in the provision of food, clothing or shelter, failure to provide medical care for physical and mental health needs; failure to protect from health and safety hazard; failure to prevent malnutrition or dehydration.)
Self-Neglect:	The negligent failure of the person themselves to exercise that degree of care that a reasonable person in a like position would exercise. (W&I 15610.57)
Physical Abuse:	"Physical Abuse" is defined as constituting any one of several crimes. Those crimes include but are not limited to assault; battery; assault with a deadly weapon; unreasonable physical constraints, or prolonged or continued deprivation of food or water; and sexual assault. For a complete definition of "physical abuse" please see Welfare and Institutions Code Section 15610.63.
Power of Attorney:	A "Power of Attorney" is a written instrument executed by a person who has the capacity to contract that grants authority to another person to act on their behalf. The person granting such authority is known as the "principal"; the person designated to act on the principal's behalf is known as the "attorney-in-fact." (Probate Code Sections 4014, 4022, 4026.) The "Attorney in Fact" owes the highest fiduciary duty to the principal recognized by the law and cannot use their position to take advantage of the principal. A power of attorney may be drafted to authorize the attorney-in-fact to make decisions with respect to a single issue, such as, medical treatment; it may be more general and include authority to make decisions with regard to the principal's finances and it may be 'durable' (survives the incompetence of the maker) or 'nondurable' (terminates with the incompetence of the principal). A copy of the Power of Attorney must be obtained and analyzed to determine the authority conferred and under what circumstances is the authority granted. Regardless of the type of power of attorney, it does not authorize the attorney-in-fact to make decisions that contradict the principal's wishes and it does not authorize the attorney-in-fact to transfer the principal's property into the attorney-in-fact's name or to otherwise misappropriate the principal's assets.
Sexual Assault	A form of physical abuse (W&I 15610.63). It includes conduct that constitutes any of the following crimes: sexual battery, rape, rape in concert, spousal rape, incest, sodomy, oral copulation and penetration of a genital or anal opening by a foreign object etc. For a complete definition, please see Welfare and Institutions Code section 15610.63.

GLOSSARY AND LAWS: DEFINITIONS

Trust/Trustee:	A trust is a contract entered into between a trustor and a trustee, at a time when both parties have capacity that is drafted for the benefit of a beneficiary. Real or personal property is said to be held in "trust" if it is held by a party (the "trustee") for the benefit of others (the "beneficiaries"). The person signing the trust instrument creating the trust is known as the "grantor" or "trustor." A copy of the trust instrument must be obtained and analyzed to determine the rights and duties of the parties. The trustee owes a fiduciary duty to the grantor to manage the trust assets according to the provisions of the trust, for the economic benefit of all of the beneficiaries. (Probate Code Section 82; and Black's Law Dictionary, Sixth Edition.) There are various types of trusts; however, none of them authorize the trustee to act in a manner that is in conflict with the grantor's wishes as expressed in the trust instrument; in conflict with the interest of the beneficiaries, or for the trustee's benefit. Therefore, any of the following acts when undertaken by a trustee should be examined closely: selling property that the grantor does not want sold; placing trust property in the trustee's name as an individual; failing to keep accurate accountings of the trust property; failing to follow the directions given in the trust instrument; giving or gifting trust assets to them self (the trustee) or to anyone other than a named beneficiary pursuant to the trust provisions
Will:	A will is a written declaration of a person's wishes as to the disposition of their property, to take effect after the person's death. (Black's Law Dictionary, Sixth Edition, Probate Code Sections 88; 6100 et seq.) The person creating a will ("testator") must be at least 18 years of age and be of "sound mind," and the will must follow certain formalities of execution as provided by statute (See Probate Code sections 6100 and 6100.5 for more information regarding the requisite mental capacity to execute a will.) A will has no effect regarding the ownership of property until the testator dies and a beneficiary under a will has no present interest in such property.

* The definitions for conservatorships provided here relate to conservatorships granted pursuant to the Probate Code. Please note that there are conservatorships granted pursuant to the Lanterman Petris-Short Act (LPS) and conservatorships for developmentally disabled persons that are not defined here.

Note: Because the law is constantly evolving, these definitions are periodically amended. Therefore, this glossary should be used only as a starting point. When examining a specific case, please refer to the actual statute that defines the term you are reviewing to assure that you have the most current definition. In addition, when uncertain about the meaning of a specific statute, please consult with your department's counsel.

HEALTH AND SAFETY CODES

End of Life Option Act	443-443.22
Felony crime of knowingly altering or forging request for drugs to end an individual's life without their authorization; or concealing or destroying a withdrawal or rescission of a request for the drug if done with the intent to cause or effect the individual's death	443.17(a)
Felony crime of knowingly coercing or exerting undue influence on an individual to request a drug for the purpose of ending their life; or administering an aid-in-dying drug to an individual without their knowledge or consent	443.17(b)

PENAL CODES

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)
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

PENAL CODES

Certain crimes where Victim disabled or 65 years or older + 1 year, + 2 years if prior conviction for listed crime	667.9
Penetration w/ prior penetration where Victim disabled or 65 years or older + 2 years	667.10
Taking, Damaging or Destroying Property	12022.6(a)
Loss Exceeds $65,000 + 1 year	12022.6(a)(1)
Loss Exceeds $200,000 + 2 years	12022.6(a)(2)
Loss Exceeds $1. 3M + 3 years	12022.6(a)(3)
Loss Exceeds $3.2M + 4 years	12022.6(a)(4)
False Imprisonment	236-237
Forgery	470
Forging Access Cards	484f
Grand Theft Felony > $950	487

WELFARE AND INSTITUTION CODES

Caretaker Defined	15656(d)
Confidentiality of Identity of Reporters	15633.5(b)
Cross Reporting	15640(A)(2)(b)
DISCLOSURE OF REPORTS AND INFORMATION	
Agencies Entitled to Identity of Reporting Party	15633(b)(1)
APS to Law Enforcement Agency	15640(a)(1)
APS to Elder/Dependent Adult Death Review	15633(b)(2)(A) 15610.55
Multi-Disciplinary Personnel Teams	15633(b)(2)(A)
Elder Abuse, Physical, Felony	15656(a)
Elder Abuse, Physical, Misdemeanor	15656(b)
Elder Abuse, Financial, Felony. $950	15656(c)
Failure to Report Elder Abuse	15630(h)
Mandatory Reporting	15610
Abandonment	15610.05
Abduction	15610.07
Financial Abuse	15610.30
Isolation	15610.43
Mental Suffering	15610.53
Neglect	15610.57(a)

WELFARE AND INSTITUTIONS CODES

Physical Abuse	15610.63(d)
Self-Neglect	15610.57(b)
Sexual Abuse	15610.63(e)
Violation of Statutory Confidentiality	15633(a)

WEB RESOURCES

Adult Protective Services
Site contains information about APS, mandated reporting, types of abuse, services offered, and the reporting form (SOC 341).
http://www.sccgov.org/aps

368 + Elder and Dependent Adult Abuse Guide for CA Law Enforcement
Mobile APP for Droid devices, iPhones, and iPads. It can also be viewed on mobile web browsers.
http//www.centeronelderabuse.org/368elderabuseca.asp

Alzheimer's Association
This national association is dedicated to researching the prevention, cures and treatments of Alzheimer's disease. Many of its findings and other on-line resources for caregivers, advocates and researches are included on their site.
http://www.alz.org/

American Bar Association: *Facts about the Law and the Elderly*
This site offers a brief overview of state laws related to elder abuse, mandatory reporting requirements, and guardianship, the rights of grandparents, and medical and end of life planning.
http://www.abanet.org/media/factbooks/elderlaw.pdf

American Society on Aging (ASA)
The largest organization of professionals in the field of aging. Publications such as *Generations* and *Aging Today,* and several newsletters, are offered online, as well as resources for people working with the elderly or their families.
http://www.asaging.org

Association for Protection of the Elderly (APE)
A national non-profit corporation that seeks to insure civil and criminal liability for all offenses committed against elders and vulnerable adults, especially for those who reside in institutional settings. This site contains advocacy links and information particularly related to improving the quality of care in nursing homes.
http://www.apeape.org

Clearinghouse on Abuse and Neglect of the Elderly (CANE)
CANE, funded by the Administration on Aging, is a database of elder abuse materials and resources operated by the University of Delaware's National Center on Elder Abuse (NCEA). CANE staff will conduct customized information searches and provide resources and referrals to elder abuse support groups.
http://www.elderabusecenter.org/default.cfm_p_cane.html

Department of Justice (DOJ)
Part of the Federal Government, works to protect older Americans in a variety of ways, including the Nursing Home Initiative and elder justice efforts to prosecute institutions whose wrongdoing results in harm or death for residents. DOJ prosecutes health care and consumer fraud and enforces civil rights addressing discrimination against older people. Publications and statistics on victimization of older people are available.
http://www.usdoj.gov/

WEB RESOURCES

Department of Justice's Office for Victims of Crimes: Tips for Responding to Elderly Crime Victims
http://www.ovc.gov/publications/infores/pdftxt/2010firtresponseguidebook.pdf

District Attorney's Office
This site contains information about the Santa Clara County District Attorney's Office, an attorney directory and resource links for law enforcement.
http://www.santaclara-da.org

Elder Abuse: Types, Causes, and Prevention
This site contains definitions of various types, overview of possible causes of abuse, prevention strategies, and resources for additional information.
http://www.elderabusecenter.org/default.cfm_p_listserve.html

National Center on Elder Abuse (NCEA)
The Center performs elder abuse clearinghouse functions, develops and disseminates information, provides training and technical assistance, and conducts research and demonstration projects. Their site provides elder abuse statistics, outcomes of incidence studies and publications.
http://www.elderabusecenter.org

National Center on Elder Abuse: List Serve
The elder abuse list server provides professionals working in the field of elder abuse with a free forum for raising questions, discussing issues, and sharing information and best practices.
http://www.elderabusecenter.org/default.cfm_p_listserve.html

National Clearinghouse on Abuse in Later Life (NCALL)
The clearinghouse develops programs and training focused on the intersection of domestic violence, sexual assault, and elder abuse/neglect. Site contains resources, links, and a store to purchase publications and training materials or rent videos.
http://www.ncall.us

National Committee for the Prevention of Elder Abuse (NCPE)
The Committee is one of six partners that make up the National Center on Elder Abuse, which is funded by Congress to serve as the nation's clearinghouse on information and materials on abuse and neglect.
http://www.preventelderabuse.org/

National Sexual Violence Resource Center (NSVRC)
The National Sexual Violence Resource Center serves as a central clearinghouse for resources and information on sexual assault. They provide information, help and support and work to influence public awareness, policy, practice and new research.
http://www.nsvrc.org

United States Administration on Aging (AOA)

Representative of its weight within the aging network, this site contains the largest collection of on-line aging resources. **http://www.aoa.gov**

WEB RESOURCES

AGENCY	PHONE NUMBER
FAMILY/DOMESTIC VIOLENCE	
Asian Americans for Community Involvement (AACI)	(408) 975-2730 http://www.aaci.org
Community Solutions	(877) 363-7238 http://www.communitysolutions.org
San Jose Police Department Family Violence Center	(408) 277-3700 http://www.sjpd.org/BOI/fvc/
Next Door Solutions to Domestic Violence	(408) 279-2962 http://www.nextdoor.org
Maitri, South Asian Hotline	(888) 862-4874 http://maitri.org/
YWCA Silicon Valley Support Services	(800) 572-2782 http://ywca-sv.org/our-services/support-services/
Victim Services Unit	(408) 295-2656 http://www.santaclara-da.org
LEGAL	
Bay Area Legal Aid	(408) 850-7066 or (800) 551-5554 (Toll Free) https://baylegal.org
California Bar Association	(866) 442-2529 (Toll Free) http://www.calbar.ca.gov
California Courts Self-Help Center: Legal Forms	http://www.courtinfo.ca.gov/selfhelp
California Rural Legal Assistance	(415) 777-2752 http://www.crla.org
Probate Court Investigator's Office	(408) 882-2761 http://www.sccsuperiorcourt.org/court_divisions/probate/probate_home.shtml
Pro-bono Project	(408) 998-5298 http://probonoproject.org

WEB RESOURCES

Professional Fiduciary Association of California	(844) 211-3151 http://www.pfac-pro.org
Restraining Orders	http://www.scscourt.org/self_help/restraining/rohc.shtml
Santa Clara County Legal Aid	(408) 998-5200 http://www.legalaidsociety.org/
Santa Clara County Superior Court	(408) 882-2700 http://www.scscourt.org/
Santa Clara County Bar Association	(408) 287-2557 http://www.sccba.com
Senior Adults Legal Assistance (SALA)	(408) 295-5991 www.sala.org/
Silicon Valley Bar Association	(408) 909-7822 http://www.svba.org
MORTGAGE INFORMATION	
California Department of Real Estate	(916) 227-0864 http://www.dre.ca.gov/conshome.html
Sourcewise	(408) 350-3200 http://www.mysourcewise.com/
U.S. Department of Housing and Urban Development	(415) 489-6400 (San Francisco Regional Office) http://www.hud.gov
OTHER AGENCIES	
California Department of Aging	(916) 419-7500 http://www.aging.ca.gov
Santa Clara County District Attorney's Consumer Protection Unit	(408) 792-2880 http://www.santaclara-da.org/sites/da/consumercorner/pages/home.aspx
Dispute Resolution Program Services Community Mediation	(408) 792-2327 http://www.santaclara-da.org/sites/da/consumercorner/pages/home.aspx

APPLICATION FOR 72 HOUR DETENTION FOR EVALUATION AND TREATMENT

Confidential Client/Patient Information
See California WIC Section 5328 and
HIPAA Privacy Rule 45 C.F.R. § 164.508

Welfare and Institutions Code (WIC), Section 5157, requires that each person when first detained for psychiatric evaluation be given certain specific information orally, and a record be kept of the advisement by the evaluating facility.

☐ **Advisement Complete** ☐ **Advisement Incomplete**

Good Cause for Incomplete Advisement

Advisement Completed By

DETAINMENT ADVISEMENT

My name is _____

I am a (Peace Officer, etc.) with (Name of Agency). You are not under criminal arrest, but I am taking you for examination by mental health professionals at (Name of Facility).

You will be told your rights by the mental health staff.

If taken into custody at his or her residence, the person shall also be told the following information in substantially the following form:

You may bring a few personal items with you which I will have to approve. You can make a phone call and/or leave a note to tell your friends and/or family where you have been taken.

Position | Date

To _____

Application is hereby made for the admission of _____

Residing at _____, California, for 72-hour treatment and evaluation pursuant to Section 5150, (adult) et seq. or Section 5585 et seq. (minor), of the WIC. If a minor, to the best of my knowledge, the legally responsible party appears to be / is: (Circle one) Parent; Legal Guardian; Juvenile Court as a WIC 300; Juvenile Court as a WIC 601/602; Conservator. If known, provide names, address and telephone number: _____

* * * * * * * * * * *

The above person's condition was called to my attention under the following circumstances: (see reverse side for definitions)

The following information has been established: (Please give sufficiently detailed information to support the belief that the person for whom evaluation and treatment is sought is in fact a danger to others, a danger to himself; herself and/or gravely disabled.)

Based upon the above information it appears that there is probable cause to believe that said person is, as a result of mental disorder:

☐ **A danger to himself/herself** ☐ **A danger to others** ☐ **Gravely disabled adult** ☐ **Gravely disabled minor**

Signature, title and badge number of peace officer, member of attending staff of evaluation facility or person designated by county.

Date | Time | Phone

Name of Law Enforcement Agency or Evaluation Facility/Person

Address of Law Enforcement Agency or Evaluation Facility/Person

☐ Weapon was confiscated and detained person notified of procedure for return of weapon pursuant to Section 8102 WIC.

(officer/unit & phone #) _____

NOTIFICATIONS TO BE PROVIDED TO LAW ENFORCEMENT AGENCY

NOTIFICATION OF PERSON'S RELEASE FROM AN EVALUATION AND TREATMENT FACILITY IS REQUESTED BY THE REFERRING PEACE OFFICER BECAUSE:

☐ Person has been referred under circumstances in which criminal charges might be filed pursuant to Sections 5152.1 and 5152.2 WIC.

Notify (officer/unit & telephone #) _____

☐ Weapon was confiscated pursuant to Section 8102 WIC.

Notify (officer/unit & telephone #) _____

SEE REVERSE SIDE FOR INSTRUCTIONS

APPLICATION FOR 72 HOUR DETENTION FOR EVALUATION AND TREATMENT

DEFINITIONS
GRAVELY DISABLED

"Gravely Disabled" means a condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing and shelter. SECTION 5008(h) WIC

"Gravely Disabled Minor" means a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. Mental retardation, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder. SECTION 5585.25 WIC

PEACE OFFICER

"Peace Officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility. SECTION 5008(i) WIC

INSTRUCTIONS FOR SECTION 5152.1, 5152.2 AND 5585 WIC

Section 5152.1 WIC

The professional person in charge of the facility providing 72-hour evaluation and treatment, or his or her designee, shall notify the county mental health director or the director's designee and the peace officer who makes the written application pursuant to Section 5150 or a person who is designated by the law enforcement agency that employs the peace officer, when the person has been released after 72-hour detention, when the person is not detained, or when the person is released before the full period of allowable 72-hour detention if all of the conditions apply:

(a) The peace officer requests such notification at the time he or she makes the application and the peace officer certifies at that time in writing that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.
(b) The notice is limited to the person's name, address, date of admission for 72-hour evaluation and treatment, and date of release.
If a police officer, law enforcement agency, or designee of the law enforcement agency, possesses any record of information obtained pursuant to the notification requirements of this section, the officer agency, or designee shall destroy that record two years after receipt of notification.

Section 5152.2 WIC

Each law enforcement agency within a county shall arrange with the county mental health director a method for giving prompt notification to peace officer pursuant to Section 5152.1 WIC.

Section 5585 et seq. WIC

Section 300 WIC is a minor who is under the jurisdiction of the Juvenile Court because of abuse (physical or sexual), neglect or exploitation.

Section 601 WIC is a minor who is adjudged a ward of the Juvenile Court because of being out of parental control.

Section 602 WIC is a minor who is adjudged a ward of the Juvenile Court because of crimes committed.

Section 8102 WIC (EXCERPTS FROM)

(a) Whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.
"Deadly weapon," as used in this section, has the meaning described by Section 8100.

(b) Upon confiscation of any firearm or other deadly weapon from a person who has been detained or apprehended for examination of his or her mental condition, the peace officer or law enforcement agency shall notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated.
Where the person is released without judicial commitment, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which may have been confiscated.

Health facility personnel shall notify the confiscating law enforcement agency upon release of the detained person, and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain return of any confiscated firearm.

CONFIDENTIAL REPORT - NOT SUBJECT TO PUBLIC DISCLOSURE

REPORT OF SUSPECTED DEPENDENT ADULT/ELDER ABUSE

DATE COMPLETED

TO BE COMPLETED BY REPORTING PARTY. PLEASE PRINT OR TYPE. SEE GENERAL INSTRUCTIONS.

A. VICTIM **Check box if victim consents to disclosure of information (Ombudsman use only - WIC 15636(a))**

NAME (LAST NAME, FIRST NAME) | AGE | DATE OF BIRTH

SSN | GENDER M F | ETHNICITY | LANGUAGE (✔ CHECK ONE) NON-VERBAL ENGLISH OTHER (SPECIFY)

ADDRESS (IF FACILITY, INCLUDE NAME AND NOTIFY OMBUDSMAN) | CITY | ZIP CODE | TELEPHONE ( )

PRESENT LOCATION (IF DIFFERENT FROM ABOVE) | CITY | ZIP CODE | TELEPHONE ( )

ELDERLY (65+) DEVELOPMENTALLY DISABLED MENTALLY ILL/DISABLED LIVES ALONE

PHYSICALLY DISABLED UNKNOWN/OTHER LIVES WITH OTHERS

B. SUSPECTED ABUSER ✔ *Check if* *Self-Neglect*

NAME OF SUSPECTED ABUSER

ADDRESS | CITY | ZIP CODE | TELEPHONE ( )

CARE CUSTODIAN (type) PARENT SON/DAUGHTER OTHER

HEALTH PRACTITIONER (type) SPOUSE OTHER RELATION

GENDER M F | ETHNICITY | AGE | DOB | HEIGHT | WEIGHT | EYES | HAIR

C. REPORTING PARTY *Check appropriate box if reporting party waives confidentiality to:* ✔ All ✔ All but victim ✔ All but perpetrator

NAME | SIGNATURE | OCCUPATION | AGENCY/NAME OF BUSINESS

RELATION TO VICTIM/HOW ABUSE IS KNOWN | STREET | CITY | ZIP CODE | TELEPHONE ( )

E-MAIL ADDRESS

D. INCIDENT INFORMATION - Address where incident occurred

DATE/TIME OF INCIDENT(S)

PLACE OF INCIDENT (✔ CHECK ONE)

OWN HOME COMMUNITY CARE FACILITY HOSPITAL/ACUTE CARE HOSPITAL

HOME OF ANOTHER NURSING FACILITY/SWING BED OTHER (Specify)

E. REPORTED TYPES OF ABUSE (✔ CHECK ALL THAT APPLY)

1. PERPETRATED BY OTHERS (WIC 15610.07 & 15610.63)

a. PHYSICAL (e.g. assault/battery, constraint or deprivation, chemical restraint, over/under medication)
b. SEXUAL
c. FINANCIAL
d. NEGLECT (including Deprivation of Goods and Services by a Care Custodian
e. ABANDONMENT
f. ISOLATION
g. ABDUCTION
h. PSYCHOLOGICAL/MENTAL
i. OTHER

2. SELF-NEGLECT (WIC 15610.57(b)(5))

a. PHYSICAL CARE (e.g. personal hygiene, food, clothing, shelter)
b. MEDICAL CARE (e.g. physical and mental health needs)
c. HEALTH and SAFETY HAZARDS (e.g. risk of suicide, unsafe environment)
d. MALNUTRITION/DEHYDRATION
e. FINANCIAL SELF-NEGLECT (e.g. inability to manage one's own personal finances)
f. OTHER

ABUSE RESULTED IN (✔ CHECK ALL THAT APPLY)

NO PHYSICAL INJURY MINOR MEDICAL CARE HOSPITALIZATION CARE PROVIDER REQUIRED

DEATH MENTAL SUFFERING SERIOUS BODILY INJURY* OTHER (SPECIFY)

UNKNOWN

F. REPORTER'S OBSERVATIONS, BELIEFS, AND STATEMENTS BY VICTIM IF AVAILABLE. DOES ALLEGED PERPETRATOR STILL HAVE ACCESS TO THE VICTIM? DOES THE ALLEGATION INVOLVE A SERIOUS BODILY INJURY (see definition in section "Reporting Responsibilities and Time Frames" within the General Instructions)? PROVIDE ANY KNOWN TIME FRAME (2 days, 1 week, ongoing, etc.). *LIST ANY POTENTIAL DANGER FOR INVESTIGATOR (animals, weapons, communicable diseases, etc.).*

✔ CHECK IF MEDICAL, FINANCIAL (ACCOUNT INFORMATION, ETC.), PHOTOGRAPHS, OR OTHER SUPPLEMENTAL INFORMATION IS ATTACHED

G. OTHER PERSON BELIEVED TO HAVE KNOWLEDGE OF ABUSE *(family, significant others, neighbors, medical providers, agencies involved, etc.)*

NAME	RELATIONSHIP
ADDRESS	TELEPHONE ( )

H. FAMILY MEMBER OR OTHER PERSON RESPONSIBLE FOR VICTIM'S CARE *(If unknown, list contact person)*

NAME	IF CONTACT PERSON ONLY ✔ CHECK		RELATIONSHIP
ADDRESS	CITY	ZIP CODE	TELEPHONE ( )

I. TELEPHONE REPORT MADE TO APS Law Enforcement Local Ombudsman Calif. Dept. of State Hospitals Calif. Dept. of Developmental Services

NAME OF OFFICIAL CONTACTED BY PHONE	TELEPHONE ( )	DATE/TIME

J. WRITTEN REPORT **Enter information about the agencies receiving this report. If the abuse occurred in a LTC facility and resulted in Serious Bodily Injury*, please refer to "Reporting Responsibilities and Time Frames" in the General Instructions. Do not submit report to California Department of Social Services Adult Programs Division.**

AGENCY NAME	ADDRESS OR FAX	Date Mailed	Date Faxed
AGENCY NAME	ADDRESS OR FAX	Date Mailed	Date Faxed
AGENCY NAME	ADDRESS OR FAX	Date Mailed	Date Faxed

K. RECEIVING AGENCY USE ONLY Telephone Report Written Report

1. Report Received by | Date/Time

2. Assigned Immediate Response Ten-Day Response No Initial Response (NIR)
Not APS Not Ombudsman No Ten-Day (NTD)
Approved by Assigned to (optional)

3. Cross-Reported to CDPH-Licensing & Cert.; CDSS-CCL; Local Ombudsman; Bureau of Medi-Cal Fraud & Elder Abuse; Calif. Dept. of State Hospitals; Law Enforcement; Professional Licensing Board; Calif. Dept. of Developmental Services; APS;
Other (Specify) Date of Cross-Report

4. APS/Ombudsman/Law Enforcement Case File Number

REPORT OF SUSPECTED DEPENDENT ADULT/ELDER ABUSE GENERAL INSTRUCTIONS

PURPOSE OF FORM

This form, as adopted by the California Department of Social Services (CDSS), is required under Welfare and Institutions Code (WIC) Sections 15630 and 15658(a)(1). This form documents the information given by the reporting party on the suspected incident of abuse or neglect of an elder or dependent adult. **Abuse** means any treatment with resulting physical harm, pain, or mental suffering or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. **Neglect** means the negligent failure of an elder or dependent adult or of any person having the care or custody of an elder or a dependent adult to exercise that degree of self-care or care that a reasonable person in a like position would exercise. **Elder** means any person residing in this state who is 65 years of age or older (WIC Section 15610.27). **Dependent Adult** means any person residing in this state, 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 including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age (WIC Section 15610.23). Dependent adult includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility (defined in the Health and Safety Code Sections 1250, 1250.2, and 1250.3).

COMPLETION OF THE FORM

1. This form may be used by the receiving agency to record information through a telephone report of suspected dependent adult/elder abuse.
2. If any item of information is unknown, enter "unknown."
3. Item A: Check box to indicate if the victim waives confidentiality.
4. Item C: Check box if the reporting party waives confidentiality. Please note that mandated reporters are required to disclose their names, however, non-mandated reporters may report anonymously.

REPORTING RESPONSIBILITIES AND TIME FRAMES:

Any mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be abuse or neglect, or is told by an elder or dependent adult that he or she has experienced behavior constituting abuse or neglect, or reasonably suspects that abuse or neglect has occurred, shall complete this form for each report of known or suspected instance of abuse (physical abuse, sexual abuse, financial abuse, abduction, neglect (self-neglect), isolation, and abandonment) involving an elder or dependent adult.

***Serious bodily injury** means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation (WIC Section 15610.67).

Reporting shall be completed as follows:

- If the abuse occurred in a Long-Term Care (LTC) facility (as defined in WIC Section 15610.47) and resulted in serious bodily injury, report by telephone to the local law enforcement agency immediately and no later than two (2) hours after observing, obtaining knowledge of, or suspecting physical abuse. Send the written report to the local law enforcement agency, the local Long-Term Care Ombudsman Program (LTCOP), and the appropriate licensing agency (for long-term health care facilities, the California Department of Public Health; for community care facilities, the California Department of Social Services) within two (2) hours of observing, obtaining knowledge of, or suspecting physical abuse.

- If the abuse occurred in a LTC facility, was physical abuse, but did not result in serious bodily injury, report by telephone to the local law enforcement agency within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse. Send the written report to the local law enforcement agency, the local LTCOP, and the appropriate licensing agency (for long-term health care facilities, the California Department of Public Health; for community care facilities, the California Department of Social Services) within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse.

- If the abuse occurred in a LTC facility, was physical abuse, did not result in serious bodily injury, and was perpetrated by a resident with a physician's diagnosis of dementia, report by telephone to the local law enforcement agency or the local LTCOP, immediately or as soon as practicably possible. Follow by sending the written report to the LTCOP or the local law enforcement agency within 24 hours of observing, obtaining knowledge of, or suspecting physical abuse.

- If the abuse occurred in a LTC facility, was abuse other than physical abuse, report by telephone to the LTCOP or the law enforcement agency immediately or as soon as practicably possible. Follow by sending the written report to the local law enforcement agency or the LTCOP within two working days.

- If the abuse occurred in a state mental hospital or a state developmental center, mandated reporters shall report by telephone or through a confidential Internet reporting tool (established in WIC Section 15658) immediately or as soon as practicably possible and submit the report within two (2) working days of making the telephone report to the responsible agency as identified below:
    - If the abuse occurred in a State Mental Hospital, report to the local law enforcement agency or the California Department of State Hospitals.
    - If the abuse occurred in a State Developmental Center, report to the local law enforcement agency or to the California Department of Developmental Services.
- For all other abuse, mandated reporters shall report by telephone or through a confidential Internet reporting tool to the adult protective services agency or the local law enforcement agency immediately or as soon as practicably possible. If reported by telephone, a written or an Internet report shall be sent to adult protective services or law enforcement within two working days.

REPORTING PARTY DEFINITIONS

Mandated Reporter (WIC Section 15630 (a)) Any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not that person receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

Care Custodian (WIC Section 15610.17) means an administrator or an employee of any of the following public or private facilities or agencies, or persons providing are or services for elders or dependent adults, including members of the support staff and maintenance staff: (a) Twenty-four hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code; (b) Clinics; (c) Home health agencies; (d) Agencies providing publicly funded in-home supportive services, nutrition services, or other home and community-based support services; (e) Adult day health care centers and adult day care; (f) Secondary schools that serve 18- to 22-year-old dependent adults and postsecondary educational institutions that serve dependent adults or elders; (g) Independent living centers; (h) Camps; (i) Alzheimer's Disease Day Care Resource Centers; (j) Community care facilities, as defined in Section 1502 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code; (k) Respite care facilities; (l) Foster homes; (m) Vocational rehabilitation facilities and work activity centers; (n) Designated area agencies on aging; (o) Regional centers for persons with developmental disabilities; (p) State Department of Social Services and State Department of Health Services licensing divisions; (q) County welfare departments; (r) Offices of patients' rights advocates and clients' rights advocates, including attorneys; (s) The Office of the State Long-Term Care Ombudsman; (t) Offices of public conservators, public guardians, and court investigators; (u) Any protection or advocacy agency or entity that is designated by the Governor to fulfill the requirements and assurances of the following: (1) The federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code, for protection and advocacy of the rights of persons with developmental disabilities; or (2) The Protection and Advocacy for the Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with mental illness; (v) Humane societies and animal control agencies; (w) Fire departments; (x) Offices of environmental health and building code enforcement; or (y) Any other protective, public, sectarian, mental health, or private assistance or advocacy agency or person providing health services or social services to elders or dependent adults.

Health Practitioner (WIC Section 15610.37) means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker or associate clinical social worker, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family, and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social service employee who treats an elder or a dependent adult for any condition, or a coroner.

Any officer and/or employee of a financial institution is a mandated reporter of suspected financial abuse and shall report suspected financial abuse of an elder or dependent adult on form SOC 342, "Report of Suspected Dependent Adult/Elder Financial Abuse".

MULTIPLE REPORTERS

When two or more mandated reporters are jointly knowledgeable of a suspected instance of abuse of a dependent adult or elder, and when there is agreement among them, the telephone report may be made by one member of the group. Also, a single written report may be completed by that member of the group. Any person of that group, who believes the report was not submitted, shall submit the report.

IDENTITY OF THE REPORTER

The identity of all persons who report under WIC Chapter 11 shall be confidential and disclosed only among APS agencies, local law enforcement agencies, LTCOPs, California State Attorney General Bureau of Medi-Cal Fraud and Elder Abuse, licensing agencies or their counsel, Department of Consumer Affairs Investigators (who investigate elder and dependent adult abuse), the county District Attorney, the Probate Court, and the Public Guardian. Confidentiality may be waived by the reporter or by court order.

FAILURE TO REPORT

Failure to report by mandated reporters (as defined under "Reporting Party Definitions") any suspected incidents of physical abuse (including sexual abuse), abandonment, isolation, financial abuse, abduction, or neglect (including self-neglect) of an elder or a dependent adult is a misdemeanor, punishable by not more than six months in the county jail, or by a fine of not more than $1,000, or by both imprisonment and fine. Any mandated reporter who willfully fails to report abuse of an elder or a dependent adult, where the abuse results in death or great bodily injury, may be punished by up to one year in the county jail, or by a fine of up to $5,000, or by both imprisonment and fine (WIC Section 15630(h)).

Officers or employees of financial institutions are mandated reporters of financial abuse (effective January 1, 2007). These mandated reporters who fail to report financial abuse of an elder or dependent adult are subject to a civil penalty not exceeding $1,000. Individuals who willfully fail to report financial abuse of an elder or dependent adult are subject to a civil penalty not exceeding $5,000. These civil penalties shall be paid by the financial institution, which is the employer of the mandated reporter, to the party bringing the action.

EXCEPTIONS TO REPORTING

Per WIC Section 15630(b)(3)(A), a mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report a suspected incident of abuse where all of the following conditions exist:

(1) The mandated reporter has been told by an elder or a dependent adult that he or she has experienced behavior constituting physical abuse (including sexual abuse), abandonment, isolation, financial abuse, abduction, or neglect (including self-neglect).
(2) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.
(3) The elder or the dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.
(4) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

DISTRIBUTION OF SOC 341 COPIES

Mandated reporter: After making the telephone report to the appropriate agency or agencies, the reporter shall send the written report to the designated agencies (as defined under "Reporting Responsibilities and Time Frames"); and keep one copy for the reporter's file.

Receiving agency: Place the original copy in the case file. Send a copy to a cross-reporting agency, if applicable.
DO NOT SEND A COPY TO THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES ADULT PROGRAMS DIVISION.