



SAN DIEGO COUNTY ELDER AND DEPENDENT ADULT ABUSE BLUEPRINT 2018

COORDINATED. CARING. COMMUNITY RESPONSE.

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HISTORY

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

MISSION STATEMENT AND VALUES

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

NEED FOR A COUNTYWIDE BLUEPRINT

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

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

--Summer Stephan
San Diego County
District Attorney



NECESSARY DEFINITIONS

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

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

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

DISPATCHER RESPONSE

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

PATROL RESPONSE

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

- Become educated about various elder and dependent adult abuse, and penal code sections accounting for physical and financial abuse, as well as neglect. The most relevant code sections are contained in **ADDENDUM A**.
 - Request Emergency Protective Orders when legally appropriate in order to best protect elder victims.
 - Treat elder and dependent adult citizens with dignity and respect.
 - Follow interview guidelines in **ADDENDUM B** for interviewing elders and dependent adults.
 - Recognize that elder or dependent adults may have difficulty narrating events, appear to be poor historians, or lack short term memory, which adds to their vulnerability.
 - Document the scene using the San Diego Countywide Elder and Dependent Adult Abuse Supplemental contained in **ADDENDUM C**.
 - Cross-Report to Adult Protective Services (APS) by calling 1-800-510-2020 (from within San Diego County area codes) or 1-800-339-4661 (from area codes outside San Diego County) and follow-up by sending a written report of documented suspected abuse within two working days, or reporting through the Aging and Independence Services Web Portal at <https://www.sandiegocounty.gov/content/sdc/hhsa/programs/ais/ais-online-referrals.html>, which does not require any follow up written report.
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- Obtain a signed medical release from potential victims.
 - Interview caregivers separately. In some situations, the caregiver may be the abuser.
 - Recognize victim cooperation is not always necessary for prosecution. Each dispatched call or **2** case should be investigated on its own evidentiary merits.

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

INVESTIGATION RESPONSE

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

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

PROSECUTION RESPONSE

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

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

RESTRAINING ORDERS

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

PSYCHIATRIC EMERGENCY RESPONSE TEAM (PERT)

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

CROSS-REPORTING

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

MANDATED REPORTING

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

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

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

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

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

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

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

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

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

Online Submissions: <https://www.sandiegocounty.gov/content/sdc/hhsa/programs/ais/ais-online-referrals.html>, Mandated reporters can register ahead of time and be approved to submit non-emergent reports 24/7 and no paper SOC 341/342 is required with this method.

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

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

OMBUDSMAN REPORTING REQUIREMENTS

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

SUSPECTED SEXUAL ABUSE OF AN ELDER OR DEPENDENT ADULT

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

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

AGING AND INDEPENDENCE SERVICES

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

ADULT PROTECTIVE SERVICES

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

LONG TERM CARE OMBUDSMAN

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

OFFICE OF THE PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN/PUBLIC CONSERVATOR

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

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

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

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

ATTORNEY GENERAL'S OFFICE

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

SUSPICIOUS DEATH/HOMICIDE

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

REMOVAL OF FIREARMS FROM THOSE LEGALLY PROHIBITED TO POSSESS THEM

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

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

ELDER AND DEPENDENT ADULT DEATH REVIEW TEAM

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

EMERGENCY MEDICAL TECHNICIANS AND PARAMEDIC FIRST RESPONDERS

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

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

CONCLUDING COMMITMENT

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