

POLICY 44. ELDER AND DEPENDENT/ADULT ABUSE AND RESPONSE

A. Elder and dependent adult defined

1. Elder is defined in California Welfare and Institutions Code (WIC) Section 15610.27 to mean any person residing in this state, 65 years of age or older.
 - a. Due to advanced medicine and other factors, the population is aging. Individuals in San Diego County aged 65 years or older now represent 13% of the population. San Diego County is the second most populous county in California and fifth in the United States. One in every 115 senior citizens in the US lives in San Diego County.
 - b. As people age, many will need additional care. This care can be provided by relatives, caregivers for a fee, or large specialized facilities. The elderly are prime targets to become victims of theft, assault and other crimes. Law enforcement must recognize their vulnerability and strive to identify problems and take action when appropriate.
2. Dependent adult is defined in WIC Section 15610.23 to mean any person residing in this state, between the ages of 18 and 64 years, who has physical or mental limitations. A dependent adult also includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility.

B. Most common elder and dependent adult crimes

1. Financial abuse
 - a. 368(d)PC: Any person who is not a caretaker who violates any provision of law proscribing theft or embezzlement, with respect to the property of an elder or a dependent adult, and who knows or reasonably should know that the victim is an elder or dependent adult, when the property taken is of value exceeding \$950.00 (Felony). *Note: "Any Person" in some cases may include a spouse.*
 - b. 368(e) PC: Any caretaker of an elder or a dependent adult who violates any provision of law proscribing theft or embezzlement, with respect to the property of an elder or a dependent adult, when the property taken is of value exceeding \$950.00 (Felony).
2. Physical and mental abuse
 - a. 368(b)(1)PC: Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or

- permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered (Felony).
- b. 368(c) PC: Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered (Misdemeanor).
3. It is important to remember that misdemeanors involving violent or potentially violent elder abuse crimes can be booked into county jail.
- a. This applies to the following charges:
 - 1. 368(c) PC – Misdemeanor Physical Elder Abuse or Neglect
 - 2. 273.6(a)/ 166(A)(4) PC – Violating a Restraining Order/Court Order
 - 3. 243.25 PC – Battery Against Elder or Dependent Adult
 - b. Misdemeanor Arrest Warrants for 368(c) PC and 273.6(a) PC
 - 1. Per 836(d) PC, a field arrest can be made for misdemeanor elder abuse crimes involving assault or battery that were not committed in your presence. There are four basic rules:
 - a. Victim must be 65 or older
 - b. Victim and suspect must be related by blood or legal guardianship
 - c. The deputy must have probable cause to believe that the person to be arrested committed the assault or battery
 - d. The deputy must make an arrest as soon as probable cause arises

C. Mandated reporting

- 1. Deputies are "mandated reporters"

2. Failure to report elder/dependent adult abuse is a misdemeanor under WIC Section 15630.
3. Mere suspicion of abuse must be documented on a SOC 341 (Report of Suspected Dependent Adult/Elder Abuse). First responders must notify the Adult Protective Services Elder Abuse Hotline [REDACTED] of the Sheriff's Department involvement as soon as practical, but no later than the end of shift. Deputies should fax the SOC 341 form to Adult Protective Services at [REDACTED]. Ensure that the Sheriff's case number is included.
4. For abuse within licensed facilities, the SOC 341 form should be faxed and/or called into the overseeing state organization to comply with Welfare and Institutions Code 15630(b)(1)(A).
5. If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state development center, the report shall be made to the local ombudsperson or the local law enforcement agency.
6. The local ombudsperson and the local law enforcement agency shall, as soon as practicable, except in the case of an emergency, in which case these actions shall be taken immediately, do all of the following:
 - a. Report to the State Department of Public Health any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.
 - b. Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult care facility as defined in paragraph (2) of subdivision (a) of Section 1502.
 - c. Report to the State Department of Public Health and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.
 - d. Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.
 - e. Report all cases of known or suspected physical abuse and financial abuse to the District Attorney's Elder Abuse Unit.

D. Contact information and method of communication

1. Long Term Health Care Facility, Adult Day Health Care Center:

State Department of Public Health
Method: Phone and Fax SOC 341

North of Interstate 8
Phone [REDACTED]
Fax [REDACTED]

South of Interstate 8
Phone [REDACTED]
Fax [REDACTED]

2. Residential Care Facility for the Elderly, Adult Day Care Facility:

State Department of Social Services
Method: Fax [REDACTED]

3. Long Term Care Facility, State Mental Health Hospital, State Developmental Center, Skilled Nursing Facility, Adult Board and Care:

Department of Justice – Medical Fraud
Method: Phone and Fax SOC 341:
Phone [REDACTED]
Fax [REDACTED]

4. Adult Protective Services (APS), a division of the County's Aging & Independence Services, is the designated agency to accept reports of suspected abuse of elders and dependent adults that happens in a person's home or out in the community (except for nursing homes, board and care homes and other healthcare-related residential facilities).

Method: Phone and Fax SOC 341:
Phone [REDACTED]
Fax [REDACTED]

5. The San Diego County Long Term Care Ombudsman program advocates for residents in Long Term Care Facilities, such as nursing homes, as well as investigates abuse in other licensed facilities. An Ombudsperson listens to concerns, provides information and assistance when requested and will investigate and resolve complaints related to care or personal rights.

County of San Diego Long-Term Care Ombudsman
9335 Hazard Way
San Diego, CA 92123-1222
Method: Phone
[REDACTED]

E. Preliminary investigation and summary

1. This type of call is similar to a report of child abuse – there are many parallels between children, elders and dependent adults.
 - a. The deputy is to be thorough and persistent (the deputy may encounter locked doors, uncooperative/incoherent victims, adult care providers talking on behalf of the victim, etc.)

- b. If the deputy is unable to make contact with the reported victim, the call will remain open.
 - c. After contacting neighbors and others, the deputy will write actions in CAD and pend the call.
 - d. Write a SOC 341 and notify Adult Protective Services and Elder Abuse. The call will remain open until the reported victim is contacted. If this extends beyond the assigned deputy's shift, the call will be closed with a disposition of follow-up needed. The shift supervisor shall be notified before EOS and follow-up will continue until the victim is contacted. The follow-up investigation(s) should be referenced to the original incident number.
2. If this follow-up status continues for an extended period of time, as determined by the field supervisor, the Sheriff's Elder Abuse Unit supervisor shall be notified.
3. If you observe suspicious circumstances, err on the side of caution.
4. Some points to remember:
 - a. Safely and expeditiously respond to the complaint
 - b. Ensure the safety of the victim
 1. If assistance is needed
 - a. Notify the appropriate entity (medical, Adult Protective Services, etc.)
 - b. Obtaining an Emergency Protective Order does not need to be authorized by the victim
 - c. Conduct a thorough preliminary investigation including:
 1. Identify victim(s), suspects, and witnesses
 2. Identify and preserve the crime scene
 3. Tell the elderly/dependent victim, if possible, what will be expected of her/him in the investigation (i.e.; hospital, evidence collection, in-depth interview, etc.)
5. Submit a crime report and SOC 341 for cases of suspected abuse, neglect, and/or financial exploitation.
6. Complete a SOC 341 and submit a Miscellaneous Elder Incident Report (NetRMS 993000) for cases where facts do not support the allegations.
7. Notify the Adult Protective Services Elder Abuse Hotline and fax the SOC-341 by the end of shift.

8. If licensed facility, cross-report to the overseeing State organization.
9. When possible, respect and protect the confidentiality and the wishes of the elderly/dependent victim regarding the notification and participation of others throughout the investigation.
10. Contact the Elder Abuse Sergeant on all Elder/Dependent Adult Abuse arrests as soon as possible by telephone 24/7.
11. Additionally, Elder Abuse Unit should be notified of all incidents involving any head injuries, strangulation, and other bodily injuries whether your suspect is/or is not in custody. Always err on the side of caution with elders and have paramedics conduct an evaluation.
12. If you have any questions during the course of your investigation, contact the on-call or on-duty Elder Abuse Unit supervisor.

(For more information, review 6.19 of the San Diego Sheriff Department's Policy and Procedures Manual.)