

**SAN DIEGO POLICE DEPARTMENT
PROCEDURE**

DATE: MAY 21, 2020

NUMBER: 3.29 – INVESTIGATIONS

SUBJECT: CRIMES AGAINST ELDERS AND DEPENDENT ADULTS

RELATED POLICY: N/A

ORIGINATING DIVISION: INVESTIGATIONS II

NEW PROCEDURE:

PROCEDURAL CHANGE: **MINOR CHANGES**

SUPERSEDES: DP 3.29 – 03/12/2019

I. PURPOSE

This Department procedure establishes guidelines for responding to, and investigating, cases involving elders and dependent adults.

II. SCOPE

This procedure applies to all members of the Department.

III. BACKGROUND

- A. As stated in Section 368(a) of the Penal Code, “The Legislature finds and declares that crimes against elders and dependent adults are deserving of special consideration and protection, not unlike the special protections provided for minor children, because elders and dependent adults may be confused, on various medications, mentally or physically impaired, or incompetent, and therefore less able to protect themselves, to understand or report criminal conduct, or to testify in court proceedings on their own behalf.”

- B. Elder and dependent adult abuse can be characterized as physical, emotional, sexual, financial, or neglect by self or others.

- C. Law Enforcement officers are mandated reporters of elder and dependent adult abuse. If an officer suspects, observes, is verbally informed, or has any knowledge that causes him or her to believe that elder or dependent adult abuse has occurred, then the officer is required by law (W&I Code 15630(b)(1)) to report the abuse to Aging & Independence Services (A&IS)/*formerly known as* Adult Protective Services (APS). Failure to meet these reporting standards is a misdemeanor.
- D. In every situation involving suspected or actual abuse, including cases of self-neglect, officers should first call A&IS at (800) 510-2020 to telephonically report the incident. Additionally, the officer shall complete a “Report of Suspected Dependent Adult/Elder Abuse” form (SOC 341) and fax it to A&IS by the end of their shift. The SOC 341 form can be found on the F: Drive (F:\Templates\Investigative Reports\SOC341).

IV. DEFINITIONS

- A. Elder - any person 65 years of age or older (368(g) PC).
- B. Dependent adult - any person who is between the ages of 18 and 64, who has physical or mental limitations, which restrict his or her ability to carry out normal activities or to protect his or her rights (368(h) PC). Dependent adults generally have a caretaker responsible for their care and safety; however, having a caretaker does not, by itself, make the person a dependent adult.
- C. Caretaker - any person who has the care, custody, or control of an elder or dependent adult, or who stands in a position of trust with an elder or dependent adult (368(i) PC).
- D. Crimes that occur against elders or dependent adults should use the appropriate 368 PC section as the primary crime case type/charge, followed by any other applicable crime section. For instance, a 245 PC committed against an elder would carry the primary charge of 368(b) (1) PC, with 245 PC as the secondary charge. This will allow the case to be properly routed through the NetRMS system.
- E. The following penal code sections apply specifically to elders and dependent adults in all cases with the exception of financial abuse:
 - 1. 368(b) (1) PC - causes or permits great bodily injury or death (felony);
 - 2. 368(c) PC - causes or permits injury to physical health (not GBI) and/or mental health (misdemeanor);

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3. 368(f) PC - false imprisonment by violence, menace, fraud, or deceit (felony); and,
 4. 243.25 PC – battery on an elder (wobbler.) This section should be used in conjunction with either 368(b) (1) PC or 368(c) PC, where applicable.
- F. Either Section 368(b) (1) or 368(c) may be applicable to neglect by others in cases where a responsible person refuses, or fails to fulfill, care-taking obligations. Some examples of this include a denial of food or medical attention, a lack of appropriate shelter, clothing, and personal needs (such as bathing and sanitation), or the withholding of necessary medications or assistance. Neglect can be intentional or unintentional.
- G. These sections also apply to mental suffering (psychological and/or emotional abuse) which is directed at an elder or dependent adult by way of threatening, humiliating, intimidating, or isolating behaviors or statements.
- H. Financial abuse occurs when the victim’s funds or resources are taken or exploited. This includes stealing or misusing the victim’s money, checks, credit, bank account, property, or real estate. Also included in this section are various scams where seniors are targeted, such as lottery scams, telephone solicitations, and home improvement scams. The following Penal Code sections apply specifically to elders and dependent adults in regards to theft and other types of financial abuse:
1. 368(d) PC - Non-Caretaker theft or embezzlement, more than \$950.00 is a felony; less than \$950.00 is a misdemeanor.
 2. 368(e) PC - Caretaker theft or embezzlement, more than \$950.00 is a felony; less than \$950.00 is a misdemeanor.
- I. Self-neglect is the failure of an elder or dependent adult to adequately take care of him or herself and meet the demands of daily living. (i.e., eating, paying bills, meeting personal hygiene needs, and taking medications.)

V. **PROCEDURES**

- A. Patrol officers are responsible for the initial investigation of all elder/dependent adult abuse cases. These cases may originate from a variety of sources, including Communications Division staff or other investigative units.
- B. In situations where an officer determines that an elder or dependent adult abuse crime has been committed, suspected, or alleged, the officer should do the following:

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1. Complete a crime report listing the appropriate 368 PC section and assign a case number to it. To assist in the completion of this task, officers shall utilize the Elder/Dependent Adult template available to them in the NetRMS system and attaching to their primary case report.
2. When interviewing the victim, try to ascertain their state of mind and level of competency, and document their responses in the report. Be mindful to document any reliance on others in answering specific questions about the abuse. When appropriate, record all victim and suspect interviews with BWC.
3. Determine who is responsible for the care of the victim. Get as much information as possible since caretakers can be suspects in the abuse.
4. Interview all possible witnesses including neighbors. Neighbors and paramedics can often provide critical details in situations where the elder is unable to communicate well.
5. Collect and impound any relevant documents or evidence, such as checks, bank records, and credit card statements. Make copies of all documents and forward them to the Elder Abuse Unit.
6. Photos are essential and must be taken in cases involving neglect and physical abuse. BWC shall not be used in place of these photos.
7. Telephone A&IS at (800) 510-2020 as soon as possible to verbally report the abuse. Complete and fax the mandatory SOC 341 form documenting the suspected or actual abuse. The fax number can be obtained from A&IS when the telephone report is made and will vary depending on location.

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8. Due to time constraints, in-custody cases must be completed and submitted by the end of the shift. Copies of any photo disks should be delivered to the Elder Abuse Unit. All evidence must be impounded at the Headquarters property room.
- C. In situations where a crime has not occurred, or when it cannot be determined that one has actually occurred, the officer should do the following:
1. Primary consideration should be given to the safety and security of the elder/dependent adult. If the victim is in need of emergency or immediate medical treatment, arrange for medical transport.

2. If the victim is gravely disabled, unable to care for him/herself, and/or is a danger to him/herself, and no responsible caregiver is present, contact A&IS/APS immediately at (800) 510-2020. Evaluate for detention under 5150 W&I and transport to an LPS Facility or hospital.
3. Complete and fax the mandatory SOC 341 form documenting the suspected or actual abuse. An ARJIS-9 is no longer required for an elder abuse incident where no crime has occurred. A&IS and the Elder Abuse Unit will follow up on the SOC 341 and take the appropriate actions.

D. Call-Outs

1. The Elder Abuse Unit shall be notified regarding all incidents involving the following:
 - a. an in-custody arrest prior to booking,
 - b. severe neglect cases,
 - c. when the victim sustains an injury, which requires hospitalization or is life-threatening,
 - d. all strangulation cases that do not fall under Domestic Violence
 - e. all cases that are high profile or could result in extensive media coverage
2. All deaths of elders which are not the result of a vehicle collision or medically documented natural deaths. The Homicide Unit should be notified first on any suspicious deaths involving elders or dependent adults.
3. The Elder Abuse Unit is staffed Monday through Friday from 0600 hours to 1600 hours. For questions, field units can contact members of the Unit at (619) 446-1070. During non-business hours, or if no answer during regular business hours contact the Watch Commander's Office, who will notify the On-Call Detective Sergeant for assistance.

E. Follow-up Investigation/Elder Abuse Unit Responsibilities

1. The Elder Abuse Unit is responsible for investigating all Felony crimes committed by a family member or caregiver of an elder or dependent adult, **EXCEPT** the following:
 - a. The Domestic Violence Unit will investigate all crimes involving domestic violence;

- b. The Homicide Unit will investigate all suspicious deaths;
 - c. The Robbery Unit will investigate all kidnappings and home-invasion robberies;
 - d. The area command Juvenile Service Teams will investigate all cases with juvenile suspects;
 - e. The Sex Crimes Unit will investigate all sex crimes; and,
 - f. The Economic Crimes Section will investigate all identity theft or financial crimes where the suspect is unknown.
 - g. The Elder Abuse Unit will investigate felony crimes against Elders Dependent Adults, when there is sufficient evidence to support that the victim was targeted due to their age or when the suspect is a caregiver or relative.
 - h. The Elder Abuse Unit will investigate; Temporary Restraining Order (TRO) and Criminal Protection Order (CPO) violations, where the restrained party is a family member or caregiver of an Elder or Dependent Adult.
 - i. To ensure proper routing via the NetRMS system, the appropriate 368 PC section(s) should be added as the primary charging section followed by the TRO or CPO violation sections (273.6 PC or 166(a) (4) PC).
2. The Elder Abuse Unit will handle misdemeanor crimes committed against elders or dependent adults where the suspect is a caregiver or family member.
 3. All other felony and misdemeanor crimes will be forwarded to the Elder Abuse Unit for screening prior to being routed to the appropriate area command for investigation. In cases where it is determined the age of the victim was not a motivation for the crime or the suspect may not have reasonably been aware of the victim's elder or dependent status, the cases *may* be routed to the area command for investigation.
 4. In **ALL** cases where an elder or dependent adult is the victim, each unit handling cases involving their area of expertise will ensure a Report of Suspected Dependent Adult/Elder Abuse form (SOC-341) has been completed and submitted, as required by law.

5. Personnel in the units referenced above will collaborate with members of the Elder Abuse Unit to make sure that the appropriate 368 PC sections are included in charging suspects along with all other applicable charges.

VI. TAKE ME HOME PROGRAM

- A. In 2010 the San Diego County Sheriff's Department implemented the Take Me Home program. The "*Take Me Home*" Program is a regional photo-based information system hosted by the Sheriff's Department accessible by all Law Enforcement in San Diego. It is designed to assist Law Enforcement (Police and Sheriff) during contacts with members of the community who have disabilities such as, but not limited to Autism, Dementia, Alzheimer's, and Down's syndrome, deafness or any other Developmental Disabilities. The San Diego Police Department has now joined the program and officers are encouraged to offer this resource to families who have family members who may require special assistance when being contacted by police or who.
- B. Once a person is registered, their information will be available on the MPS in the form of a special situation. If the family/caregiver uploaded a photo during registration, a photo will be included on the special circumstance in addition to any special contact issues that the family wishes to make law enforcement aware of. For example, the notes could state the person is sensitive to loud noise, or does not respond well to certain specific circumstances. This program could also assist with community members who have a history of wandering away from their residence or who have the potential to do so. Registration into this program will only be done with a caregiver or family member's cooperation.
 1. How to register someone in the program:
 - a. Refer the community member to www.sdsheriff.net/TMH/
 - b. After a person is registered, the SDSO will verify the information and will enter it into the registry.
 - c. The SDSO will then send an email to SDPD communications to enter the new registrant into our MPS system as a special situation which may include a photograph.

2. How to search for a community member in the system:
 - a. Any department member with access to SDLaw has search access to Take Me Home.
 - b. Log on to SDLaw and select eMug Web.
 - c. Click OK
 - d. Select Take Me Home from the drop down menu and click “RETRIEVE”
 - e. You can now search for person by using any of the identifying descriptions listed including geographical area.