

04-002 Elder and Dependent Adult Abuse

Los Angeles County Sheriff's Department

FIELD OPERATIONS DIRECTIVE

Field Operations Support Services, (323) 890-5411



ELDER AND DEPENDENT ADULT ABUSE

PURPOSE

The purpose of this directive is to establish procedures for the handling of actual or suspected incidents of elder and dependent adult abuse or neglect and to establish procedures for maintaining and operating the Suspected Elder Abuse Reporting System (SEAR System). It also implements the provisions of a Memorandum of Understanding (MOU) between the Sheriff's Department and other County and State departments.

BACKGROUND

Penal Code, §368(a) states in part 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."

Definitions:

Abuse of an Elder or a Dependent Adult - any physical abuse, neglect, financial abuse, abandonment, isolation, abduction or other treatment resulting in physical harm or pain or mental suffering by anyone. The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering (WIC §15610.07).

Elder - any person residing in this state, 65 years of age or older (PC §368(g) and WIC §15610.27).

Dependent Adult - any person residing in this state, 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 own rights. "Dependent adult" also includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health care facility (PC §368(h) and WIC §15610.23).

Physical Abuse - assault, battery, assault with a deadly weapon or force likely to produce great bodily injury, unreasonable physical constraint, or prolonged or continual deprivation of food or water, sexual battery, rape, rape in concert, spousal rape, incest, sodomy, oral copulation, sexual penetration, lewd or lascivious acts, use of a physical or chemical restraint or psychotropic medication (WIC §15610.63)

Financial Abuse - when a person or entity does or assists in taking, secreting, appropriating, obtaining or retaining real or personal property to a wrongful use or with intent to defraud, or both, or by undue influence (WIC §15610.30).

Mental Abuse - fear, agitation, confusion, severe depression, or other forms of serious emotional distress that is brought about by forms of intimidating behavior, threats, harassment, or by deceptive acts performed or false or misleading statements made with malicious intent to agitate, confuse, frighten or cause severe depression or serious emotional distress (WIC §15610.53).

Neglect - negligent failure of any person having the care or custody of an elder/dependent adult to exercise that degree of care that a reasonable person in a like position would exercise (e.g., failure to assist in personal hygiene or in the provision of food, clothing, or shelter; failure to provide medical care; failure to protect an elder/dependent adult from health and safety hazards; and failure to prevent malnutrition or dehydration) (WIC §15610.57).

Self-Neglect - negligent failure to exercise that degree of self-care that a reasonable person in a like position would exercise (same as neglect when they fail to satisfy their needs as a result of poor cognitive functioning, mental limitations, substance abuse, or chronic poor health) (WIC §15610.57).

Mandated Reporter - certain individuals are mandated to report all incidents of actual or suspected elder/dependent adult abuse and neglect (WIC §15630(a)). Law enforcement must report to various social service and state licensing agencies. Failure to report actual or suspected abuse of an elder/dependent adult is a misdemeanor (WIC §15630(h)).

Report of Suspected Dependent Adult/Elder Abuse form (SOC 341) - a mandated California Department of Social Services form. Stations may have a supply of these forms and the form is in "Outlook/AllForms/Patrol/Miscellaneous." This form is also known as a SOC 341.

SEAR System (Suspected Elder Abuse Reporting)- The computer RightFax system in which the stations receive the SOC 341 form and distribute it as a call for service.

Non-Criminal Elder/Dependent Adult Abuse Check-off Report - A Department check-off report for a non-criminal elder/dependent adult abuse call for service. This report is located in "Outlook/All Forms/Patrol/Miscellaneous."

In 2005, the Department entered into an MOU with other county and state departments and agencies. The purpose of the MOU is the mutual understanding and commitment of the involved departments and agencies to cooperatively work together to have clear lines of communication between departments in the event of possible elder/dependent adult abuse or neglect.

POLICY AND PROCEDURES

Department personnel who receive information where elder/dependent adult abuse or neglect is suspected shall arrange for a call for service. If the location of the suspected abuse, with the exception of financial abuse, is serviced by an agency other than our Department, the call shall be referred to the appropriate agency. If the abuse is financial, the station that has jurisdiction over the elder/dependent adult's actual residence shall begin an investigation of the facts. This applies to stations and individual Department members receiving information by any means including a SOC 341 form by mail, fax, RightFax, or other

means. In the event personnel receive the information by means other than a SOC 341, they have the added responsibility to contact the appropriate social services agencies by telephone immediately or as soon as practically possible and by completing a SOC 341 form and forwarding it to the appropriate social services agency within two working days.

All reports regarding actual or suspected elder/dependent adult abuse or neglect are confidential. The identity of any person who reports actual or suspected elder/dependent adult abuse or neglect shall be confidential and shall not be given to the victim, family members, caregivers, et cetera. A violation of confidentiality is a misdemeanor (WIC §15633(a)).

All incidents of elder/dependent adult abuse or neglect will be assigned by following procedures found in the Manual of Policy and Procedures (MPP, §4-04/012.00, Abuse). The primary assignment lies with the station detective bureau. Fraud Detail (Commercial Crimes Bureau) will assist field personnel and station detectives with financial abuse cases by providing guidance. Complex cases of financial abuse may be reassigned to Fraud Detail with the prior approval of the Fraud Detail Supervisor.

Many times allegations of elder/dependent adult abuse may appear to be civil but are actually criminal based on the fact that the victim is an elder/dependent adult.

Watch Deputy's Responsibilities

The watch deputy shall assign all suspected elder/dependent adult abuse or neglect incidents as a call for service. These calls for service may be generated by a phone call, station walk-in, or SOC 341, et cetera.

1. The watch deputy shall check the SEAR System and process the SOC 341 as described in Attachment "A."
2. The watch deputy shall check the SEAR System at the beginning of each shift and periodically thereafter throughout the shift.
3. All SOC 341s received through the SEAR System shall be entered into the CAD system as a call for service.
4. If the SOC 341 clearly fails to establish a basis for a criminal investigation, the watch deputy shall confer with the watch commander. If the watch commander determines no call for service shall be issued, the watch deputy shall ensure an URN is drawn and clear the tag. The watch deputy shall ensure that a Non-Criminal Elder/Dependent Adult Abuse check-off report is completed. Only the box entitled "No Law Enforcement response required" need be completed and the form faxed to the appropriate social services agency, as per Attachment "B."
5. When determining whether to dispatch a call as a routine or emergent, the watch deputy shall take into consideration the degree of urgency of the information detailed in the SOC 341.

Except in cases that clearly dictate otherwise, all elder/dependent adult abuse calls for service shall be handled and cleared from the SEAR System in a timely manner, generally within 24 hours. (Example exceptions: A SOC 341 is received on a weekend and the informant is a financial institution or doctor's office, which is closed on weekends; or a catastrophic emergency)

If a SOC 341 is received by any means other than the SEAR System, including SOC 341s generated by field deputies, the watch deputy shall enter the SOC 341 into the SEAR System by faxing the SOC 341 to the station's respective SEAR System RightFax number. The watch deputy shall process the SOC 341 as described above as either a call for service to be investigated by a field deputy or a SOC 341 that does not

establish a basis for criminal investigation.

Responding Deputy's Responsibilities

Field deputies may receive information of actual or suspected elder/dependent adult abuse or neglect through their own observations, field contacts, or from a SOC 341 form dispatched from the watch deputy.

The responding deputy shall thoroughly investigate the suspected abuse or neglect. Deputies shall attempt to confirm the abuse or neglect with the victim. In some forms of abuse, such as financial abuse or self-neglect, contacting the victim may not be the most appropriate initial response; checking with neighbors, bank managers, social agency worker, or the victim's doctor may provide more accurate information.

In all actual or suspected incidents of elder/dependent adult abuse or neglect, an incident report is required even though the victim is non-desirous of prosecution. The incident report must contain the following information:

- In the case of physical abuse, neglect, abandonment, isolation, or mental suffering, the classification line of the incident report shall reflect the criminal violation of 368 P.C. (with the appropriate subsection) and the statement "Elder Abuse - 'type of abuse'" or "Dependent Adult Abuse - 'type of abuse'," whichever is appropriate.
- In the case of financial abuse, the classification line of the incident report shall reflect the criminal violation of 368(d) P.C. and the statement "Elder Abuse - Financial" or "Dependent Adult Abuse - Financial," which is appropriate.
- When a specific violation cannot be substantiated either by the informant, the victim, or other facts, and the handling deputy believes (or circumstances dictate) that something has occurred, an incident report is still required. The classification line should read "Suspicious Circumstances-Possible Elder Abuse" or "Suspicious Circumstances-Possible Dependent Adult Abuse."
- The social services agency and licensing agency name and case number.
- Notifications to the appropriate social services agency and licensing agency, including the name of the agency, contact phone number, date, time and name of person contacted.
In the event an incident report is generated as a result of information other than a SOC 341, the handling deputy must complete a SOC 341 and contact the appropriate social services agency and licensing agency by telephone immediately or as soon as practically possible and must forward the SOC 341 to the appropriate social services agency and licensing agency.
If the SOC 341 form has been previously completed by a mandated reporter, the handling deputy does not have to duplicate the form but shall ensure:
- If the abuse or neglect occurred in a facility, the name and full address of the facility must be listed on the SOC 341 form and the incident report.
- The URN shall be printed at the top of the SOC 341 next to "Law Enforcement Case/File Number" in the space provided.
- The original or a copy of the SOC 341 form shall be attached to the incident report.
After the handling deputy investigates a suspected incident of elder/dependent abuse which has been generated by a SOC 341, and the handling deputy can articulate beyond a reasonable doubt that no abuse or neglect has occurred, no incident report is necessary; however, the handling deputy shall complete a Non-Criminal Elder/Dependent Adult Abuse Check-Off report.

- When the handling deputy completes a Non-Criminal Elder/Dependent Adult Abuse Check-off report, the handling deputy shall obtain an URN with a statistical code of 715.
- A copy of the SOC 341 shall be attached to the Non-Criminal Elder/Dependent Adult Abuse Check-Off report.

The handling deputy shall fax both the approved Non-Criminal Elder/Dependent Adult Abuse Check-Off report and the SOC 341 to the appropriate social services agency and licensing agency, according to Attachment "B."

Self-neglect is not a crime but must be documented on a Non-Criminal Elder/Dependent Adult Abuse Check-Off report, as noted above, pending further investigation of its cause.

WIC §15630 identifies employees of law enforcement agencies as mandated reporters of actual or suspected elder/dependent adult abuse. This section mandates that specified agencies be notified in cases of actual or suspected elder/dependent adult abuse or neglect. If the deputy's incident report was the result of a SOC 341 received by the Department, the deputy need not notify the social services agency and licensing agency by telephone, since they already possess the information. However, the deputy must fax the completed Non-Criminal Elder/Dependent Adult Abuse

Check-Off report and the already existing SOC 341 to the social services agency and licensing agency.

In the event of an elder/dependent adult abuse investigation where there is no existing SOC 341 (such as a deputy's self-initiated investigation or a traditional call for service, via telephone) the appropriate social services agency and licensing agency must be notified as directed in Attachment "B."

The statistical codes for elder/dependent adult abuse and neglect are as follows:

- 174 – Elder Physical Abuse/Neglect
- 176 – Elder Mental Abuse
- 177 – Elder Fiduciary (financial) Abuse
- 178 – Dependent Adult Abuse (physical, mental, and fiduciary abuse)
- 715 – Elder/Dependent Adult Abuse, Allegation Only
- 707 – Suspicious Circumstances - Possible Elder Abuse

The Penal Code and Welfare and Institution Code sections which may be used for elder/dependent adult abuse (physical abuse, neglect, abandonment, isolation, or mental suffering) are as follows:

- 368(b)PC - Abuse/Neglect - felony/misdemeanor
- 664/368(b)PC - Attempt Abuse/ Neglect - felony/misdemeanor
- 368(c)PC - Abuse/Neglect – misdemeanor
- 368(f)PC - False Imprisonment – felony
- 15656 WIC - same as Penal Code 368 - felony/misdemeanor

Penal Code and Welfare and Institution Code sections which may be used for elder/dependent adult (financial) abuse are as follows (for the below sections, \$950 and above is a felony and less than \$950 is a misdemeanor):

- 368(d)PC - Not a caretaker, theft from elder/dependent adult
- 664/368(d)PC - Not a caretaker, attempted theft from elder/dependent adult
- 368(e)PC - Caretaker, theft from elder/dependent adult
- 664/368(e)PC - Caretaker, attempted theft from elder/dependent adult

- 15656 WIC - same as Penal Code 368 - felony/misdemeanor

When assistance is requested by an adult social services agency or licensing agency to enter a residence or dwelling to conduct an elder/dependent adult abuse or neglect investigation, a deputy may enter the residence or dwelling only on the following conditions:

- Consent by person competent to authorize consent
- Exigent circumstances exist
- Warrant

If a deputy has questions regarding the validity of the situation or the entry, the deputy shall contact his/her supervisor.

- Upon entering a residence in support of a social services agency or licensing agency investigation, the role of the deputy is to ensure a safe environment for all parties involved. If the deputy identifies any violations of law, the deputy shall take appropriate police action.

Watch Sergeant's Responsibilities

When reviewing reports, the watch sergeant shall ensure that the reports contain the information as described above and the SOC 341 is attached to the incident report.

If the handling deputy submits a Non-Criminal Elder/Dependent Adult Abuse Check- Off form, the watch sergeant shall:

- Ensure an URN was obtained using a statistical code of 715
- Ensure the SOC 341 is attached
- Complete the "Approved By" box of the form

Ensure the handling deputy faxes the approved report and SOC 341 to the appropriate social services agency and licensing agency and that the fax information requested at the bottom of the form has been completed.

Watch Commander's Responsibilities

Watch commanders shall check the SEAR System during each shift and ensure that all outstanding SOC 341s are handled and cleared from the SEAR System in a timely manner, generally within 24 hours. The watch commander shall note the check of the SEAR System in the Watch Commander's Shift Log.

Station Detective Bureau Responsibilities

All reports of actual or suspected elder/dependent adult abuse will be assigned to station detectives (MPP §4-04/012.00).

Station detectives shall ensure the handling deputy has faxed all deputy generated SOC 341s to the

appropriate social services agency and licensing agencies within two working days of the SOC 341 report. The handling detective shall work in conjunction with county and/or state departments or agencies listed in the MOU, as well as any other state or county agency having authority to investigate elder/dependent adult abuse, either as a criminal, social service, or licensing matter. If additional county or state departments or agencies have reports related to a criminal investigation, the handling detective shall obtain the reports to assist in the filing of criminal charges.

The handling detective is required to notify the appropriate social services agency and licensing agency of the outcome of the criminal investigation.

If the handling detective receives an incident report, usually for financial abuse, and the crime was committed in a different jurisdiction, the handling detective may refer the matter to the law enforcement agency where the suspected crime was committed for further investigation of the facts.

Station Responsibilities

Maintain the SEAR System folder associated with the individual station.

Commercial Crimes Bureau's Responsibility

CCB - Fraud Detail shall maintain and manage the SEAR System.

Act as liaisons between Department members and social services agencies and law enforcement agencies.

Assist station personnel with advice, directions, and necessary contacts outside the Department.

REFERENCE/CITES:

PC §368 - Abuse of Elder or Dependent Adult

WIC §15610.07 - Abuse of an Elder or Dependent Adult

WIC §15610.23 - Dependent Adult Defined

WIC §15610.27 - Elder Defined

WIC §15610.30 - Financial Abuse Defined

WIC §15610.53 - Mental Suffering Defined

WIC §15610.57 - Neglect Defined

WIC §15610.63 - Physical Abuse Defined

WIC §15630 - Mandated Reporter of Abuse

WIC §15633.5 - Confidentiality

WIC §15656 - Abuse of Elder or Dependent Adult

SOC 341 – Report of Suspected Dependent Adult/Elder Abuse

MPP Section 4-04/012.00, Abuse

ATTACHMENTS:

Attachment “A” - Watch Deputy and Computer Instructions for SEAR (Suspect Elder Abuse Reports) System

Attachment “B” - Suspected Elder and Dependent Adult Abuse Reporting Matrix

Non-Criminal Elder/Dependent Adult Abuse Check-off Report
