Working with the Criminal Justice System

PARTICIPANT MANUAL

MODULE 22
This training was produced by the San Diego State University School of Social Work, Academy of Professional Excellence under grant #2009-SZ-B9-K008, awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this training are those of the contributors and do not necessarily represent the official position or polices of the U.S. Department of Justice.

**Curriculum Developer**

Candace Heisler, JD

© 2013. San Diego State University School of Social Work, Academy for Professional Excellence. Please acknowledge this copyright in all non-commercial uses and attribute credit to the developer and those organizations that sponsored the development of these materials. No commercial reproduction allowed.
INTRODUCTION

THE ACADEMY FOR PROFESSIONAL EXCELLENCE

We are pleased to welcome you to the Working with the Criminal Justice System training, developed by Project MASTER, a program of the Academy for Professional Excellence and the product of the National APS Training Partnership. This training is funded by a grant from the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice.

The Academy for Professional Excellence was established in 1996 and provides training, technical assistance, organizational development, research, and evaluation to public and private health and human service agencies and professionals.

The Academy is a project of San Diego State University School of Social Work (founded in 1963), which offers both a bachelor’s and master’s degree in Social Work. The School of Social Work at San Diego State University was founded in 1963 and has been continuously accredited by the Council of Social Work Education since 1966.

The Academy has extensive experience in providing specialized services, including:

- multi-disciplinary competency-based trainings
- curriculum development
- needs assessment
- research
- evaluation
- meeting facilitation
- organizational development consultation services

MASTER is a program of the Academy for Professional Excellence which has the overarching goal to develop standardized core curricula for new APS social workers and to share these trainings on a national scale. Professional training opportunities are a critical step toward ensuring APS social workers have the appropriate tools to serve their victims. MASTER has worked extensively with state and national partner agencies in the development of this curriculum.

Our partners include:

- National Adult Protective Services Association Education Committee (NAPSA)
- The Statewide APS Training Project of the Bay Area Training Academy
- California Department of Social Services, Adult Services Branch
- California State University Sacramento IHSS Training Project
- Protective Services Operations Committee of the California Welfare Director’s Association (PSOC)
- California Social Work Education Center Aging Initiative (CalSWEC)
PARTNER ORGANIZATIONS

Lori Delagrammatikas, Program Manager for MASTER
The Academy for Professional Excellence
6505 Alvarado Road, Suite 107
San Diego, CA 92120
(909) 213-6059
ldelagra@mail.sdsu.edu
http://theacademy.sdsu.edu/programs/

Krista Brown, APS Project Coordinator
The Academy for Professional Excellence
6505 Alvarado Road, Suite 107
San Diego, CA 92120
(510) 459-0731
krbrown@mail.sdsu.edu
http://theacademy.sdsu.edu/programs/

Kathleen Quinn, Executive Director
National Adult Protective Services Association
920 South Spring Street, Suite 1200
Springfield, IL 62704
(217) 523-4431 / (271) 522-6650
Kathleen.quinn@apsnetwork.org

Paul Needham, Chair
NAPSA Education Committee
Oklahoma Department of Human Services
PO Box 25352,
Oklahoma City, OK 73125
(405) 521-3660
paul.needham@okdhs.org

Jennifer Bransford-Koons, Chair
Protective Services Operations Committee of the County Welfare Director’s Association
Aging and Independence Services
9335 Hazard Way, San Diego, CA 92123
(858) 505-6963
jennifer.bransford@sdcounty.ca.gov

Academy for Professional Excellence- 6505 Alvarado Road, Suite 107
Tel. (619) 594-3546 – Fax: (619) 594-1118 – http://theacademy.sdsu.edu/programs/
ACKNOWLEDGMENTS

This training is the result of a collaborative effort between Adult Protective Services administrators, supervisors, staff development officers and workers across the state and the nation; professional educators; and the Academy for Professional Excellence staff members. Project MASTER would like to thank the following individuals and agencies:

**Agencies**
California Department of Social Services, Adult Services Branch
California Social Work Education Center Aging Initiative
Orange County Social Services Agency
Riverside County Department of Public Social Services
San Bernardino County Department of Aging and Adult Services
San Diego County Aging and Independence Services

**Regional Curriculum Advisory Committee**
Beverly Johnson, LCSW, Staff Development Officer, Riverside County
Carol Castillon, APS Supervisor, San Bernardino County
Carol Kubota, LCSW, Staff Development Officer, Orange County
LaTanya Baylis, Staff Development Officer, San Bernardino County
Ralph Pascaul, Staff Development Officer, Los Angeles County

**Committees**
Project MASTER Steering Committee
APS Core Curriculum Committee
National Adult Protective Services Association Education Committee
Protective Services Operations Committee of the California Welfare Directors’ Association

**Curriculum Developer**
Candace Hiesler

**Evaluation Consultant**
James Coloma, Evaluation Consultant
Jane Berdie, Evaluation Consultant
Cynthia Parry, Evaluation Consultant
TABLE OF CONTENTS

General Information

Introduction……………………………………………………………………………………. 3
Partner Agencies…………………………………………………………………………….... 4
Acknowledgements…………………………………………………………………………... 5
Table of Contents……………………………………………………………………………... 6
Course Outline……………………………………………………………………………….... 8
Training Goal and Objectives……………………………………………………………… 9
E-Learning “Pre-work”…………………………………………………………………… 10
State Reporting Laws Activity ……………………………………………………………... 11
Your Reporting Laws Grid………………………………………………………………… 12
The Language of the Criminal Justice System…………………………………………. 16
Criminal Justice Terms and Their Meanings……………………………………………. 17
Handout 1: Executive Summary…………………………………………………………….. 18

Presentation

Welcome and Introductions .......................... ....................................................... 21
Handout 2: Participant Letter of Consent............................................................... 23
Handout 3: ID Code Assignment ............................................................... 26
Role of the Criminal Justice System and Its Intersection with APS .................... 29
Communicating and Interacting with the Criminal Justice System....................... 31
Handout 4: Suggestions for Case Building After Crawford v. Washington.......... 36
Ms. Mary Video..................................................................................................... 40
Victim-Based versus Evidence-Based Activity................................................ 41
The Continuing Role of APS .............................................................................. 42
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rights</td>
<td>44</td>
</tr>
<tr>
<td>Handout 5: Victims’ Bill of Rights “Marsy’s Rights” (California)</td>
<td>46</td>
</tr>
<tr>
<td>Crimes and their Elements</td>
<td>49</td>
</tr>
<tr>
<td>Handout 6: Crimes and Their Elements (California)</td>
<td>51</td>
</tr>
<tr>
<td>Applying the Law to the Facts</td>
<td>53</td>
</tr>
<tr>
<td>Handout 7: Case Scenarios</td>
<td>54</td>
</tr>
<tr>
<td>Handout 8: Case Building Framework</td>
<td>60</td>
</tr>
<tr>
<td>Your Role as Witness</td>
<td>63</td>
</tr>
<tr>
<td>Handout 9: Tips on Being a Witness</td>
<td>65</td>
</tr>
<tr>
<td>Handout 10: Case Scenario - Josephine and William</td>
<td>67</td>
</tr>
<tr>
<td>Handout 11: Outline of Direct Examination</td>
<td>70</td>
</tr>
<tr>
<td>Concluding the Training Day</td>
<td>73</td>
</tr>
</tbody>
</table>

References

References................................................................. 74
## COURSE OUTLINE

<table>
<thead>
<tr>
<th>Content</th>
<th>Total Time</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>E-Learning Pre-work</strong></td>
<td></td>
</tr>
<tr>
<td>• State Reporting Laws Activity</td>
<td>E-mailed 2 weeks in advance of the in-person training</td>
</tr>
<tr>
<td>• The Language of the Criminal Justice System</td>
<td></td>
</tr>
<tr>
<td>• Common Terms in the Criminal Justice System</td>
<td></td>
</tr>
<tr>
<td><strong>Welcome &amp; Introductions: Overview of Project, Housekeeping, Vocabulary of the CJS, Learning Objectives</strong></td>
<td>15 min</td>
</tr>
<tr>
<td><strong>Role of the Criminal Justice System and its Intersection with APS</strong></td>
<td>30 min</td>
</tr>
<tr>
<td><strong>Communicating and Interacting with the Criminal Justice System</strong></td>
<td>60 min</td>
</tr>
<tr>
<td><strong>Break</strong></td>
<td>15 min</td>
</tr>
<tr>
<td><strong>Rights and LUNCH</strong></td>
<td>70 min plus 1 hour for lunch</td>
</tr>
<tr>
<td><strong>Crimes and their Elements</strong></td>
<td>25 min</td>
</tr>
<tr>
<td><strong>Applying the Law to the Facts</strong></td>
<td>45 min</td>
</tr>
<tr>
<td><strong>Break</strong></td>
<td>10 min</td>
</tr>
<tr>
<td><strong>Your Role as Witness</strong></td>
<td>45 min</td>
</tr>
<tr>
<td><strong>Concluding the Training Day</strong></td>
<td>30 min</td>
</tr>
</tbody>
</table>
TRAINING GOALS AND OBJECTIVES

By the end of this training, participants will be able to:

1. Distinguish the role of Adult Protective Services from the role of LE and Prosecution

2. Identify factors that make a provable case to take to law enforcement:
   a. Name the three levels of proof
   b. Name the three types of evidence

3. Explain the difference between an evidence-based and a victim-based case and how that affects the factors that must be proven.

4. Explain APS’s role when a case is accepted for prosecution
   a. Name four things that APS can do for abuse victims when the case has been accepted for prosecution.
   b. Name four ways that APS can advocate for abuse victims with the criminal justice system

5. Identify the rights of victims and defendants:
   a. List a minimum of three rights of all adults
   b. List a minimum of three rights of everyone accused of a crime

6. Identify the elements of a crime when given the statute.

7. Identify the crimes that correspond with types of elder abuse.

8. Explain the importance of documentation to enhance credibility when testifying in a criminal case.

You have registered for a class entitled “Working with the Criminal Justice System”. As part of your training, there is e-learning pre-class work that must be completed and brought with you to the in-person class.

This e-learning module will introduce you to the criminal justice system, including its language, rules, case building, and court procedures. The goal is to familiarize you with the criminal justice system and identify ways you will interact with it. Segments will also identify ways to enhance your effectiveness when your case investigations disclose conduct that may be criminal.

The entire module consists of online e-learning activities and a one day in-class session. The e-learning activities will support the classroom learning and must be completed prior to the in-person class. **Plan to print out and bring the e-learning materials to the class.**

In the e-learning segments you will research your state’s elder or vulnerable adult reporting law and will learn the language of the criminal justice system. The activities are:

- **State Reporting Laws Activity:** review your state’s reporting laws and complete a grid with various questions. Then review four scenarios and apply your reporting laws to these situations.

- **Language of the Criminal Justice System** presents you with common APS terms and asks you to identify their equivalent in the criminal justice system.

- **Common Terms in the Criminal Justice System** presents you with common criminal justice system terms and asks you to match them with their definitions.

The activities can be completed in any order. You may work together with your classmates. The activities were attached to an email.
State Reporting Laws Activity (Copy – eLearning Pre-Work)

In order to work with the criminal justice system effectively you must know your state’s elder abuse or vulnerable adult reporting laws and criminal statutes that often are present in these kinds of cases.

Part one of this activity requires that you research key provisions of your reporting laws and complete the following chart. Column one presents the question to be addressed; column two is to be completed with the correct answer; column three is to show the statute or other reference for the correct answer. PLEASE BE SURE TO BRING THE COMPLETED CHART TO THE “WORKING WITH THE CRIMINAL JUSTICE SYSTEM” CLASS.

Part two presents you with four situations and asks you to apply your knowledge of reporting laws to them.

For this activity the following definitions may be helpful:

**Elder/Vulnerable Adult Abuse**: refers to any laws that require designated (or all) individuals to report suspected abuse of elders or adults with significant disabilities. States use a variety of terms to describe persons with disabilities such as vulnerable adult, infirm adults, dependent adult, etc.

**Adult Protective Services (APS)**: refers to the agency with responsibility for receiving and investigating allegations of elder and vulnerable adult abuse. They may have various names such as APS, Protective Services, etc. In this activity the term APS is used to describe them. Please substitute your state’s name in relevant questions.

**Criminal Justice System**: This term is used to describe law enforcement and prosecution agencies. If your law is limited to one of these agencies, please indicate in the answer column.

Finding your state’s reporting law can be done several different ways. Go to your state’s web site and enter “elder or vulnerable adult reporting law”; do a Google search of your state’s name and the same term; or go to [http://www.americanbar.org/content/dam/aba/migrated/aging/about/pdfs/APS_IA_LTCoP_Citations_Chart.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/aging/about/pdfs/APS_IA_LTCoP_Citations_Chart.authcheckdam.pdf), select your state and the web address for your statutes will appear.
### PART I: YOUR REPORTING LAWS (Copy – eLearning Pre-Work)

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
<th>Code Section or Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does your state have mandatory reporting of elder/vulnerable adult abuse?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What are the eligibility criteria to be an elder or a vulnerable adult?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Who is a mandated reporter?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What kinds of conduct must be reported?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>How does your law define:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Physical abuse</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Sexual abuse</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Caregiver neglect</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Self-Neglect</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. Financial abuse</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Emotional or psychological abuse</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. Other Reportable Forms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What is the standard of suspicion to report?</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>To what agency/agencies are reports made? Is there a difference if the alleged conduct occurs in a facility rather than in a community/non-facility setting?</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Is there a time requirement for reporting?</td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td>How are reports made?</td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>Is there a penalty for a mandated reporter who fails to report?</td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td>Is there immunity for good faith reporting?</td>
<td></td>
</tr>
</tbody>
</table>
| 12. | What agency/agencies investigates incidents in facilities such as:  
|      |   a. Nursing home  
|      |   b. Board and care  
|      |   c. State hospital  
|      |   d. Other: |
| 13. | Is APS required to cross report? |
| 14. | If so, to whom? |
| 15. | If so, what must be cross-reported? |
16. Under what circumstances does APS cross report to law enforcement? Does law enforcement have to cross report to APS?

17. Does APS share its investigative reports with the criminal justice system? If so, under what circumstances?

18. Does your state have a statute specifically authorizing APS to participate in a Multi-disciplinary Team (MDT)?

<table>
<thead>
<tr>
<th>Part 2: Scenarios</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A 75-year-old woman reports to her doctor that her broken arm and facial bruising came from a beating last night inflicted by her spouse.</td>
</tr>
<tr>
<td>2. A counselor at a group home reports that a 28-year-old male resident who has traumatic brain injury and cannot live independently was sexually abused by a van driver taking him to a medical appointment.</td>
</tr>
<tr>
<td>3. A son reports that his elderly father’s assets have been misused by his guardian and that furniture and personal property have disappeared while the guardian has controlled his father’s estate.</td>
</tr>
<tr>
<td>4. A 72-year-old woman recovering from hip surgery and receiving care at a local nursing home reports that the facility staff has failed to give her prescribed pain medications and ignored her buzzer when she rings for help.</td>
</tr>
</tbody>
</table>

As to each scenario, answer these questions:

1. What category of abuse/neglect is this conduct, to whom must it be reported, and must it be reported under your state’s mandatory reporting law?

2. Does the alleged victim meet your state’s definition of an elder or vulnerable adult?
3. What agency would investigate this allegation?
4. What if any conduct may be criminal?

5. How would law enforcement become involved in this case if the original report went to APS?
## The Language of the Criminal Justice System (Copy – eLearning Pre-Work)

Activity: List the term(s) used by the criminal justice system to describe common terms used by Adult Protective Services/Protective Services:

<table>
<thead>
<tr>
<th>Adult Protective Services Term</th>
<th>Criminal Justice Terminology</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult Protective Services Worker</td>
<td>APS worker = Reporting</td>
</tr>
<tr>
<td></td>
<td>party; witness</td>
</tr>
<tr>
<td>Alleged Perpetrator (May be called suspected perpetrator or suspected abuser)</td>
<td></td>
</tr>
<tr>
<td>Client</td>
<td></td>
</tr>
<tr>
<td>Collateral</td>
<td></td>
</tr>
<tr>
<td>Emotional or Psychological Abuse</td>
<td></td>
</tr>
<tr>
<td>Financial Exploitation</td>
<td></td>
</tr>
<tr>
<td>Neglect</td>
<td></td>
</tr>
<tr>
<td>Physical Abuse</td>
<td></td>
</tr>
<tr>
<td>Reporting Party</td>
<td></td>
</tr>
<tr>
<td>Sexual abuse</td>
<td></td>
</tr>
</tbody>
</table>
## Criminal Justice Terms and Their Meanings (Copy – eLearning Pre-Work)

**Instructions:** Match the term in column one with its definition in column two

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felony</td>
<td>a. Ruling on an objection that the witness does not have to answer the question</td>
</tr>
<tr>
<td>Misdemeanor</td>
<td>b. More evidence in favor of guilt than against it</td>
</tr>
<tr>
<td>Right of Allocution</td>
<td>c. Anything with a tendency in reason to prove an element of a crime</td>
</tr>
<tr>
<td>Discovery</td>
<td>d. An out of court statement offered to prove the truth of what it contains</td>
</tr>
<tr>
<td>Restraining Order</td>
<td>e. The right to speak and provide personal views at sentencing (may include victim impact statement)</td>
</tr>
<tr>
<td>Subpoena</td>
<td>f. Criminal defendant’s constitutional right to cross examine witnesses called by the prosecution</td>
</tr>
<tr>
<td>Probable cause</td>
<td>g. The right to receive certain information from the other side in a criminal case</td>
</tr>
<tr>
<td>Hearsay</td>
<td>h. Ruling on an objection that requires the witness to answer the question that was asked</td>
</tr>
<tr>
<td>Arraignment</td>
<td>i. A crime punishable by no more than a year in county jail, a fine, or both</td>
</tr>
<tr>
<td>Direct examination</td>
<td>j. Civil order to provide specific protection such as stay away from specific persons or locations, no contact, or prohibiting certain behaviors</td>
</tr>
<tr>
<td>Defendant</td>
<td>k. Crime punishable by imprisonment in state prison or death</td>
</tr>
<tr>
<td>Right of confrontation</td>
<td>l. Burden of proof required of the prosecution in a criminal case</td>
</tr>
<tr>
<td>Beyond a reasonable doubt</td>
<td>m. The first court appearance in a criminal case</td>
</tr>
<tr>
<td>Evidence</td>
<td>n. Person charged with a crime</td>
</tr>
<tr>
<td>Overruled</td>
<td>o. Evidence from which an inference must be drawn to prove a fact or element that must be established</td>
</tr>
<tr>
<td>Circumstantial Evidence</td>
<td>p. The testimony first elicited from a witness</td>
</tr>
<tr>
<td>Sustained</td>
<td>q. Court order requiring a person to appear as a witness in an action or to produce records</td>
</tr>
</tbody>
</table>
EXECUTIVE SUMMARY

Course Title: Working with the Criminal Justice System

In this interactive and thought provoking introductory training, participants learn how to identify crimes and the elements of crimes. They learn how to “build” a case that is more likely to be accepted for prosecution and how to support the victim if the case goes to court. They will also learn about their own role as a witness in court.

The following instructional strategies are used: The following instructional strategies are used: pre-class research, lecture segments; interactive activities/exercises (e.g. small group discussion, case studies); question/answer periods; PowerPoint slides; participant guide (encourages self-questioning and interaction with the content information); embedded evaluation to assess training content and process; and transfer of learning activity to access knowledge and skill acquisition and how these translate into practice in the field.

Course Requirements:
Please note that training participants are expected to participate in a variety of pre-class, in-class and post-training evaluation activities. These activities are designed to enhance the learning experience and reinforce the skill acquisition of training participants as well as determine the overall effectiveness of the trainings. An executive summary of each training and directions for post-training evaluation activities will be provided to training participants and their supervisors. Certificates of course completion will be awarded upon completion of ALL course activities.

Target Audience:
This course is designed for new APS social workers as well as Vulnerable Adult Abuse partners (e.g. conservatorship investigators, workers in the aging and disability networks). This training is also appropriate for senior staff that require knowledge and/or skills review.

Outcome Objectives for Participants:
By the end of this training, participants will be able to:

1. Distinguish the role of Adult Protective Services from the role of LE and Prosecution

2. Identify factors that make a provable case to take to law enforcement:
   a. Name the three levels of proof
   b. Name the three types of evidence

3. Explain the difference between an evidence-based and a victim-based case and how that affects the factors that must be proven.

4. Explain APS’s role when a case is accepted for prosecution
c. Name four things that APS can do for abuse victims when the case has been accepted for prosecution.
d. Name four ways that APS can advocate for abuse victims with the criminal justice system

5. Identify the rights of victims and defendants:
c. List a minimum of three rights of all adults
d. List a minimum of three rights of everyone accused of a crime

6. Identify the elements of a crime when given the statute.

7. Identify the crimes that correspond with types of elder abuse.

8. Explain the importance of documentation to enhance credibility when testifying in a criminal case.


TRANSFER OF LEARNING: *Ways supervisors can support the transfer of learning from the training room to on-the-job.*

**BEFORE the training**
Supervisors can encourage line staff to complete the pre-training research, to attend the training and help them identify particular strengths and/or challenges that they have had working with law enforcement in the past. Training participants can share these experiences during training.

**AFTER the training**
Supervisors can read the training executive summary and instructions for out-of-class transfer of learning activity. Supervisor and training participant can then schedule a time to complete the activity together – at this point the trainees can share what specific skills they obtained from the training. If further staff involvement is available, trainees may present an overview of what was learned to other staff members to encourage collaboration and a culture of learning.
PRESENTATION
WELCOME AND INTRODUCTIONS

TIME ALLOTTED: 15 minutes

Slide #3

This training was produced by the Academy for Professional Excellence under award #0019-52-89-0008, awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this training are those of the contributors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

The National APS Training Project is a project of the Academy for Professional Excellence, San Diego State University School of Social Work

Slide #4

Housekeeping and Introductions

• Schedule for the day
• CEU instructions
• Location of restrooms
• Set cell phones to vibrate
• Introductions
• Please return promptly from breaks and help us keep to the schedule
Slide #5

Evaluation Process

- Transfer of Learning Activity
- Satisfaction Survey
- Embedded Evaluation
June 2013

Dear Training Participant,

As a training program for the Academy for Professional Excellence at San Diego State University School of Social Work, MASTER (Multi-disciplinary Adult Services Training & Evaluation for Results) has begun a process of evaluating trainings delivered to Adult Protective Service workers. As part of this evaluation, we need your help.

At certain points during this training series, in addition to the usual workshop evaluation forms, you will be asked to complete various training evaluation activities.

These training evaluation activities have two main purposes:

1. To improve trainings’ effectiveness and relevance to your needs, and help you better serve adults and their families; and
2. To see if the training has been effective in getting its points across.

Our goal is to evaluate training, NOT the individuals participating in the training.

In order to evaluate how well the training is working, we need to link each person’s assessment data using a code. You will generate the code number using the first three letters of your mother’s maiden name, the first three letters of your mother’s first name, and the numerals for the day you were born. Please put this 8-digit ID code on each of your assessment forms, exactly the same way each time. ID code information will only be used to link demographic data to test data to ensure that the training is working equally well for all participants. Once this linking is done, we will only be looking at class aggregate scores, rather than individual scores.

Only you will know that your ID code refers to you. All individual responses to evaluation exercises are confidential and will only be seen by the Academy’s training program and evaluation staff. Only group averages and percentages will be reported. Individual results will not be reported to your employer. Aggregate data may be used for future research to improve training for Adult Protective Service workers.
If you agree to participate, you will fill out a questionnaires administered before and after the training. The questionnaire will be coded with a unique identifier system and all responses will be confidential.

There are no foreseeable risks to you from participating. There is also no direct benefit to you. Your responses will contribute to the development of a series of evaluation tools that will be able to accurately assess the effectiveness of Adult Protective Service training. It is hoped that these tools will assist the Academy for Professional Excellence in improving training for Adult Protective Service workers and therefore improve services to adults and families.

Your participation is voluntary and you may withdraw your consent and participation at any time. Participation or non-participation will have no effect on your completion of this training series.

By completing and submitting the questionnaire, you agree to participate. You further agree to permit us to use your anonymous responses in written reports about the questionnaires.

Your help with this evaluation process is greatly appreciated. Your feedback will be instrumental in helping to improve Adult Protective Service training for future participants. If you have any questions about the evaluation or how the data you provide will be used, please contact:

Carrie Gibson, MSW
Training & Evaluation Specialist
Academy for Professional Excellence
San Diego State University – School of Social Work
6505 Alvarado Road, Suite 107
San Diego, CA 92120
(619) 594-6717
cgibson@mail.sdsu.edu
Developing an ID Code

- What are the first three letters of your mother’s maiden name? Alice Smith
- What are the first three letters of your mother’s first name? Alice Smith
- What are the numerals for the day you were born? Nov 29th

Trainee ID Code: S M A L 1 2 9

HANDOUT #3: MASTER Identification Code Assignment

- In order to track each of your evaluation responses while maintaining your anonymity, we need to assign you an identification code.
- You will generate the code number using the first three letters of your mother’s maiden name, the first three letters of your mother’s first name, and the numerals for the day you were born.
- Please put this 8-digit ID code on each of your assessment forms, exactly the same way each time. ID code information will only be used to link demographic data to test data to ensure that the training is working equally well for all participants.
- The questionnaires will be coded with a unique identifier system and all responses will be confidential. Only you will know your ID code refers to you.
- Aggregate data may be used for future research to improve training for Adult Protective Service workers.
YOUR IDENTIFICATION CODE:

In order for us to track your evaluation responses while maintaining your anonymity, we need to assign you an identification code. We would like you to create your own identification code by answering the following questions:

1. What are the first three letters of your mother’s maiden name?
   Example: If your mother’s maiden name was Alice Smith, the first three letters would be: S M I. If the name has less than three letters, fill in the letters from the left and add 0 (zero) in the remaining space(s) on the right.
   ___  ___  ___

2. What are the first three letters of your mother’s First name?
   Example: If your mother’s maiden name was Alice Smith, the first three letters would be: A L I. If the name has less than three letters, fill in the letters from the left and add 0 (zero) in the remaining space(s) on the right.
   ___  ___  ___

3. What are the numerals for the DAY you were born?
   Example: If you were born on November 29, 1970, the numerals would be 2 9. If your birth date is the 1st through the 9th, please put 0 (zero) in front of the numeral (example 0 9).
   ___  ___

Combine these parts to create your own identification code (example: S M I A L I 2 9).
Please write your identification code in the space at the top right corner of all evaluation materials you receive.

Remember your identification code and write it at the top of every evaluation form provided to you throughout this training.
Slide #7

Introductions
• Instructors
• Class Members

Slide #8

Have You
• Worked with law enforcement?
• Worked with prosecutors?

Slide #9

Vocabulary of CJS
Slide #10

The Criminal Justice System

Law Enforcement  Prosecution  Probation  Victim Witness Assistance Program

Slide #11

Course Goal

Improve your ability to successfully work with the criminal justice system

Slide #12

Learning Objectives

- Distinguish the role of Adult Protective Services from role of LE and Prosecution
- Identify factors that make a provable criminal case to take to law enforcement
- Explain the difference between evidence-based vs. victim-based cases
- Explain APS’s role in a criminal investigation and prosecution
- Identify the rights of victims and defendants

Slide #13

Learning Objectives

- Identify the elements of a crime when given the statute
- Identify the crimes that correspond with types of elder abuse
- Explain the importance of documentation to enhance credibility when testifying in a criminal case
- Document the situational context of spontaneous statements

MODULE 22 -28-
Scenario: Mrs. G. is 72 and uses a walker to ambulate following two strokes. She is seen by her doctor for a broken wrist which she says she received when her son became angry after she refused to sign over her social security check to him. She says she was holding her check when her son grabbed her wrist and twisted it until she released the check. He then grabbed the check and ran out of her home. She says this has happened before as her son has a drug problem. The doctor reports the incident in accordance with state law.

What is the role of APS?

What is the role of Law Enforcement?
Class Discussion
Where do the roles of APS and the criminal justice system intersect?

Intersecting Roles
- Well checks
- Safety backup for APS
- Advance information
- Involuntary mental health commitments
- Cross reporting
- Provide APS information to LE
- Testify in court as a witness
- Arrange Capacity Declaration
- Provide Services
- Provide info about suspect

Questions
- Can APS share information with law enforcement?
- Is everything in the APS file provided to law enforcement?
COMMUNICATING AND INTERACTING WITH THE CRIMINAL JUSTICE SYSTEM

TIME ALLOTTED: 60 minutes

Slide #18

The Criminal Justice System

- Adversarial system designed to "elicit the truth".

Slide #19

Two parties; different missions

- Prosecution is the representative of the state or government and is responsible for ethically prosecuting crimes
- Defense represents only the defendant and is responsible for protecting that person's rights and attempting to get the best possible outcome
Slide #20

Burden of Proof

**Preponderance of evidence**
- More evidence in favor of a position than against it.
  - 50% plus anything
  - Civil cases
  - Often the substantiation standard for an APS investigation.
  - Same as probable cause and is evidence needed to arrest

**“Clear and convincing”**
- Highly probable that the fact is true so that the fact finder has a firm conviction or belief that the cause is true

Slide #21

Burden of Proof

**“Beyond a reasonable doubt”**
- Required for a criminal conviction
- Highest legal burden of proof in law
- Proof that leaves the fact finder with an abiding conviction that the charge is true.
- The evidence need not eliminate all possible doubt because everything is open to some possible or imaginary doubt

Slide #22

Burden of Proof

**Reasonable suspicion**

**Preponderance of the evidence**

**Beyond a reasonable doubt**

**Probable Cause**
Scenario: APS receives a report that Mrs. X is being neglected by her daughter. The allegation states that Mrs. X had been very friendly and social and was always very clean and groomed. A year ago her daughter Marianne moved in to help her as she was becoming very confused and had serious arthritis so she could no longer write checks or maintain her home. The reporter stated that Mrs. X came to her door and was dirty and crying. She said she was hungry, cold, and alone.
The scenario continues: An APS Worker goes to Mrs. X’s home and sees she is dirty, the house is cold (it is 40 degrees outside), and she is alone. The worker notices a large pile of mail addressed to Mrs. X which she cannot describe. There are photos on the wall that show art work and a large piano in the living room which are not there now. Mrs. X is unable to answer most of the worker’s questions and keeps calling her by her adult daughter’s name, Marianne.

The worker speaks with the reporter who is a neighbor. The neighbor repeated the information she provided in her initial report. In addition, she said that she gave Mrs. X food and wrapped her in a blanket. She walked Mrs. X home and found that she was alone. The house was messy. She adds that she and Mrs. X have been friends for 25 years and always used to play bridge until Mrs. X grew increasingly confused and could not remember the game rules. At that time she occasionally would wander away. Lately Marianne has had a lot of visitors who come and go at all hours of the day. Marianne often leaves for hours or days.

Slide # 26

Discussion

“What level of proof do you have now?”
Slide #27

Class Discussion

What more is needed to prove this case beyond a reasonable doubt?

Slide #28

Beyond a Reasonable Doubt

- Statements by Marianne
- Confirm Marianne to provide care/pay bills
- Bank records
- Proof of unpaid bills
- Ongoing drug investigation
- Medical providers re: Mrs. X's condition
- Doctors' statements to Marianne
- Statement by Mrs. X
Suggestions for Case Building after Crawford v. Washington

1. Document victim (and other family members) statements
   - Incident
   - Prior abuse and threats whether reported, charged, or successfully prosecuted
   - Victim’s fear of defendant
   - Current/past protection orders
   - Past medical treatment for abuse or neglect
   - Defendant’s power and control tactics
   - Document victim behavior in and out of defendant’s presence

2. Inquire and document any threats or intimidation
   - Ask all witnesses if defendant has taken action or made statements to discourage victim from testifying
   - Identify all witnesses to these events
   - Do not have to be threats to kill or seriously injure
   - Who has the witness or victim told?
   - Defendant’s actions
   - Obtain anything showing contact between defendant and witness/victim

3. Need to find other sources than the victim
   - Who else knows?
   - Who has suspect told?
   - Corroboration through medical sources, friends, family, financial records, and other non-governmental sources
   - Statements suspect has made to friends and family

4. Obtain and memorialize witness’s statements
   - Videotape in case tapes can be used in court proceedings
   - Review by expert witnesses
   - Non-hearsay purposes such as to prove suspect could not believe there was lawful consent
   - In case of misconduct by the defendant making the statement admissible

5. Explain to victims able to testify that it is very likely case will not be proven without them testifying

6. Refer and link victims to victim advocates and community resources and support
   - Develop a means to maintain regular and consistent contact with victim
Slide # 29

Framework for Investigations

Physical Evidence
Confessions
Witnesses

Slide # 30

Investigative Goals

What
How

Slide # 31

Role of the Victim

“Victim Based”
“Evidence Based”
Slide #32

Why do APS workers need to understand the importance of evidence-based cases and build your own cases accordingly?

Slide #33

Importance

The criminal justice system will not proceed with a case built exclusively on the victim's information

- Insufficient evidence
- Series of events
- Mortality of victim
- Cognitive issues
- Victim recants

Slide #34

Role of the Victim

- Some cases require that the victim testify; others do not
- Best case is evidence-based whether victim must testify or not
Slide #35

Rules of Evidence

- Defendant has constitutional right to face and confront all witnesses called against them
  - Crawford v. Washington
- If victim is competent to testify likely they will be asked to do so
- Testimony can be expedited
  - Conditional examination

Slide #36

Evidence That May Be Admissible Without the Victim Testifying

- Your observations
- A/P statements against interest or admissions
- Spontaneous Statements
- Business Records
- Medical records

Slide #37

Evidence That May Be Admissible Without the Victim Testifying

- Statements for Medical Care
  - Diagnosis and Treatment
  - Discharge Planning
- Chance overheard remarks
- Statements to non governmental agents
  - Friends and Family
  - Who have you talked to about this?
  - Who else knows?
- See Participant Manual, Handout 4, for suggestions
Think about Ms. Mary as a witness and possible other sources of evidence.

Ms. Mary
- What are your concerns about her as a witness?
- Is it likely she would need to testify?
- Are there ways to minimize the risk she will not survive the prosecution?
- Are there ways to expedite the taking of her testimony with cross examination by the defense?

Activity
- Does the victim need to testify?
- What other ways can the case be proven or the victim’s testimony corroborated?
- Select a spokesperson to report back
Mrs. X Scenario (continued)

Mrs. X and her daughter Marianne (scenario for burden of proof)

APS receives a report that Mrs. X is being neglected by her daughter. The allegation states that Mrs. X had been very friendly and social and was always very clean and groomed. A year ago her daughter Marianne moved in to help her as she was becoming very confused and had serious arthritis so she could no longer write check or maintain her home. The reporter stated that Mrs. X came to her door and was dirty and crying. She said she was hungry, cold, and was alone.

An APS Worker goes to Mrs. X’s home and sees she is dirty, the house is cold (it is 40 degrees outside), and she is alone. The worker notices a large pile of mail addressed to Mrs. X which she cannot describe. There are photos on the wall that show art work and a large piano in the living room which are not there now. Mrs. X is unable to answer most of the worker’s questions but keeps calling her by her adult daughter’s name, Marianne.

The worker speaks with the reporter who is a neighbor. The neighbor repeated the information she provided in her initial report. In addition she said that she gave Mrs. X food and wrapped her in a blanket. She walked Mrs. X home and found that she was alone. The house was messy. She adds that she and Mrs. X have been friends for 25 years and always used to play bridge until Mrs. X grew increasingly confused and could not remember the game rules. At that time she occasionally would wander away. Lately Marianne has had a lot of visitors who come and go at all hours of the day. Marianne often leaves for hours or days.

Marianne is located a few days later and says she is doing the best she can but her mother is demanding, refuses to do as directed, and yells at her. She has to leave or she “will lose it”. She has no explanation for the unpaid bills in the mail and says she has been selling off things in the home because her mother doesn’t use them or need them and they need the money.

Does the victim need to testify?

What other ways can the case be proven or the victim’s testimony corroborated?
The Continuing Role of APS

Assume that your case has been charged by the prosecutor, discuss and develop answers to your group’s question.

**Group A:**
Once the case is being prosecuted, what is your role as APS in the case?

**Group B:**
How can you advocate for your client?

---

**Role of APS**

- Work with and through victim witness program advocates
- Arrange for transportation to follow up interviews, court appearances, forensic examinations if required
- Arrange for emergency or transitional housing as needed
- Develop longer term resources for victim
- Serve as witness
- Identify other witnesses developed through your own investigation

---
Slide # 44

Advocating for Your Client

• Encourage cases to be investigated and charged quickly
• Discourage continuances and delay
• Encourage early memorialization of victim information
• Advocate for victim’s desires such as contact with the abuser, counseling for the abuser
• Introduce victim to other providers including victim witness advocates.

Slide # 45

Lessons Learned

• What are 2 things you have learned so far that you can apply to your job?
• Note these in your Participant Workbook

Note 2 things you have learned:

1.

2.
RIGHTS

TIME ALLOTTED: 130 minute including lunch break

Slide #46

Rights

Slide #47

Rights of Defendants and Adults

- The criminal justice system operates under rules that protect the rights of the parties
- Criminal defendants have state and federal constitutional rights and other legal protections that limit what evidence can be presented against them
- States also afford all adults in general and in a more limited way, crime victims, rights and protections

MODULE 22 -45-
Rights of Crime Victims

- To protection
- To notice of court proceedings
- To be heard
- To confer with the state’s attorney
- To restitution
- To proceedings free from unreasonable delay.
- To be treated with fairness and with respect for the victim’s dignity and privacy.
Handout 5 - Victims’ Bill of Rights “Marsy’s Rights”

California Constitution, Article i, Section 28(b)

In order to preserve and protect a victim’s rights to justice and due process, a victim shall be entitled to the following rights:

1. To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.

2. To be reasonably protected from the defendant and persons acting on behalf of the defendant.

3. To have the safety of the victim and the victim’s family considered in fixing the amount of bail and release conditions for the defendant.

4. To prevent the disclosure of confidential information or records to the defendant, the defendant’s attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim’s family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.

5. To refuse an interview, deposition, or discovery request by the defendant, the defendant’s attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.

6. To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.

7. To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.

8. To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.

9. To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.
10. To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim’s family and any sentencing recommendations before the sentencing of the defendant.

11. To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.

12. To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.

13. To restitution.
   A. It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.
   B. Restitution shall be ordered from the convictedwrongdoerin every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.
   C. All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.

14. To the prompt return of property when no longer needed as evidence.

15. To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.

16. To have the safety of the victim, the victim’s family, and the general public considered before any parole or other post-judgment release decision is made.

17. To be informed of the rights enumerated in paragraphs (1) through (16).

A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the above rights in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request. (Cal. Const., art. i, § 28(c)(1)
Slide #49

Rights of Criminal Defendants

- Counsel
- Jury (or other) trial
- Against compulsory self-incrimination (be required to testify against themselves)
- Call witnesses
- Confront accusers
- Be free of unlawful search and seizure
- Bail
- Presumption of innocence

Slide #50

Why Do APS Workers Need This Information?

Slide #51

APS Workers

- Educate clients
- Understand own role and reasons why must testify
- Prepare clients who are possible witnesses or whose cases may be reviewed by the criminal justice system
CRIMES AND THEIR ELEMENTS

TIME ALLOTTED: 25 minutes

Slide #52

Crimes and Their Elements

Slide #53

- Crimes are composed of elements
- Must prove each element
- APS must recognize common crimes
- APS must know their elements
Slide #54

**Example showing elements of a crime**

Any person who willfully inflicts corporal injury resulting in a traumatic condition upon the offender’s spouse or former spouse; cohabitant or former cohabitant; fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship; or the mother or father of the offender’s child. (CA Penal Code 273.5)

Slide #55

**Example showing elements of a crime**

- The suspect willfully inflicted corporal injury resulting in a traumatic condition
  - Traumatic condition is a condition of the body, such as a wound, or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force.
- On a person in one of these relationships
  - Spouse or former spouse;
  - Cohabiting or former cohabiting;
  - Fiancé or fiancée;
  - Someone with whom the offender has, or previously had, an engagement or dating relationship; or
  - The mother or father of the offender’s child.

Slide #56

**Finding the Elements**

- Most criminal laws are in the (list name of code) available at (list website)
- To determine the elements of a crime, read the crime’s definition.
- The elements of a crime are also in the jury instruction books (available online at list website)
Group 1 - Penal Code Section 243(e)(1)

When a battery is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship, the battery is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment.

"Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.

A battery is any willful and unlawful use of force or violence upon the person of another. (Penal Code Section 242).

Group 2 - Penal Code Section 243.4

(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars ($2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars ($10,000).

As used in this subdivision, "touches" means either:

- physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim; or
physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

"Intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

**Group 3 - Penal Code Section 368 (Neglect)**

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, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not to exceed six thousand dollars ($6,000), or by both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years.

“Elder” means any person who is 65 years of age or older.

**Group 4 - Penal Code Section 459**

Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, floating home, railroad car, locked or sealed cargo container, inhabited camper when the doors are locked, aircraft, with intent to commit grand or petit larceny or any felony is guilty of burglary.

As used in this chapter, "inhabited" means currently being used for dwelling purposes, whether occupied or not. A house, trailer, vessel designed for habitation, or portion of a building is currently being used for dwelling purposes if, at the time of the burglary, it was not occupied solely because a natural or other disaster caused the occupants to leave the premises.

**Group 5 - Penal Code Section 529.**

(a) Every person who falsely personates another in either his or her private or official capacity, and in that assumed character does any of the following…

(1) Becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take that bail or surety.

(2) Verifies, publishes, acknowledges, or proves, in the name of another person, any written instrument, with intent that the same may be recorded, delivered, or used as true.

(3) Does any other act whereby, if done by the person falsely personated, he might, in any event, become liable to any suit or prosecution, or to pay any sum of money, or to
incur any charge, forfeiture, or penalty, or whereby any benefit might accrue to the party
personating, or to any other person.

APPLYING THE LAW TO THE FACTS

TIME ALLOCATED: 45 minutes

Slide #58

Applying the Law to the Facts

- Working with your assigned scenario
  - Identify the crimes
  - List the evidence to prove each element
  - Determine if there are questions that need to be asked to clarify any of the elements
- Document your findings on chart paper
- List each crime on a separate page of chart paper along with the answers to the remaining questions
Mrs. Phillips is 72 and has difficulty moving around. She has diabetes and hypertension but can control them with medication and diet. Six months ago her son Douglas moved in with her to help her out and after he lost his job and his marriage broke down. In the last 3 months, Douglas has repeatedly asked Mrs. Phillips for money. First it was small amounts. More recently he has demanded greater and greater sums. Last month when Mrs. Phillips’ received her social security check, Douglas demanded that she sign it over to him. When she refused he twisted her arm up behind her back until it snapped. Three days later a neighbor came by to visit and discovered Mrs. Phillips’ condition. The neighbor drove her to the hospital where she was treated. Mrs. Phillips told her neighbor what had happened but begged her not to tell anyone. Mrs. Phillips told medical staff she had fallen on the stairs.

Earlier this month the neighbor went to visit Mrs. Phillips. She saw that the house was a mess, an unusual condition, and that Mrs. Phillips was having problems catching her breath. Mrs. Phillips whispered to her that Douglas had tried to take her check again and had choked her until she fainted. She said that Douglas has taken all the money she had in the house and she has not eaten anything except candy bars and crackers for three days. She says that she cannot find her medications and believes that her son had hidden them.
Case 2 - Frank Mathews and Melinda Johnson

A bank teller reports to APS that the bank has recently cashed several large checks for $29,950.00 payable to “Melinda Johnson” from the account of longtime customer Frank Mathews, who is 84 years of age. The bank is concerned because these are unusually large checks for Mr. Mathews to write and the checks seem to have been written by two different people. The bank teller is particularly concerned because Mr. Mathews lives alone in his longtime home and was widowed nine months ago. The teller says Mr. Mathews was not doing very well while his wife was alive but since her death has been very lonely. He recently came to the bank with a much younger woman he introduced as his daughter, Melinda. The bank teller says she was surprised as Mr. Mathews had repeatedly told her that he and his wife had three sons who all lived in another state. She also said that Mr. Mathews seemed really confused and agitated on that visit.

APS contacted Mr. Mathews who has vision problems sufficiently serious that he cannot read his mail or fill out his checks. When asked about “Melinda Johnson”, he says she is his daughter. He says she suddenly came back into his life “a while ago.” He is obviously confused about the date, his address, and the name of his late wife. He says he has one child and that is Melinda. He says he has never had a son, let alone three. He says Melinda does not live with him but visits him “pretty much every day.”

With his permission, Mr. Mathews’ checkbook is located and reviewed. There are no copies or register entries. He says he has plenty of money though he cannot say how much. A bank statement reflects a balance of less than $10,000. A statement from a year ago showed a balance of $125,000. There are numerous unpaid bills around the house and notices of threatened shutdown of utilities due to nonpayment of bills. Mr. Mathews is unaware of these and is very confused.

The APS worker had Mr. Mathews evaluated. The doctor determined that Mr. Mathews has a dementing illness and is incapable of managing his affairs or living independently. The doctor concluded the condition has existed for several years and is apparent to anyone who spends time with him. The dementia is accompanied by depression. A petition for guardianship/conservatorship has been filed and is pending in Probate Court.

The bank provides account information and ATM photos and bank video showing a young woman presenting and cashing checks from Mr. Mathews’ account. The teller identifies the woman as the person introduced to her as Melinda Johnson. Police have identified Melinda Johnson as a suspect in a similar incident committed against another older widower, Bill Nelson. There is an ongoing investigation in that case.
Case 3 - Marie and Harry Baker

Marie Baker is an 82 year old woman who is married to Harry who is 80. She recently broke her hip in a fall and is recovering from surgery in a skilled nursing facility (SNF) after being transferred there from the hospital. On a visit at the SNF, a staff member saw Harry yell at his wife to get up and stop playing sick. He then called Marie a “failure as a human being” and “a useless witch”, struck her in the hip area where she had recently had surgery, and punched her in the chest. He told her to get up and come home or he would not be responsible to what might happen to her cat. Marie became visibly upset, grabbed her chest, and cried out in pain. The staff member tried to intervene and told Harry to leave. Harry laughed and said he’d go, but next time he would be back with his gun. The staff member told his supervisor but is now afraid to return to Marie’s room.

Staff attempted to talk with Marie. She said she did not want to discuss it and to leave her alone.

The next day the care nurse entered Marie’s room and found the curtain around the bed drawn. She heard a sound and on drawing back the curtain found Harry having sex with Marie. Marie was crying. Her hands were held down by Harry who had forced his penis in her mouth. As he stood up Harry told Marie to shut up and not say a word. He quickly departed saying “can’t a man have time with his wife.”

Police were called after Marie told the nurse Harry had forced himself on her. Marie required medical treatment for injuries to her mouth and pain medication for her hip. Marie was interviewed and told the detective that she had been married to Harry for 60 years and had been beaten and abused by him for most of that time. She expressed concern for her cat who Harry constantly threatens to harm. She said that the hip surgery came after Harry pushed her down a flight of stairs. She is terrified of Harry who has guns at home. Last month he became angry with her and threatened to shoot her. He actually pointed a gun at her and said it would be easy to pull the trigger. He stopped when she fainted.

She acknowledged the incident the prior day and said that Harry had called her names, punched her in her hip where the surgery had been performed, and then punched her in the chest. A bruise was visible at the time of the interview and it was photographed.
Case 4 - Doris Miller and Sandra

Doris Miller hired a caregiver, Sandra, to care for her husband Marcus who had end stage cancer. Sandra provided good care to Marcus and also became a companion and friend to Doris who herself had vision and hearing problems, and could not drive. When Marcus died Doris found herself overwhelmed by all the responsibilities of running the house and dealing with the finances. She was bewildered by all the financial decisions and matters that Marcus has always handled.

Sandra realized that Doris continued to need help with her care and driving and offered to stay on. Doris was relieved as Sandra, who had become the daughter she never had, was a great help and a trusted friend. Sandra wrote out the monthly checks and Doris signed them. Sandra drove her to appointments and took her to movies and other outings. Sandra introduced Doris to her favorite hobby, gambling at a nearby casino.

Sandra also intercepted the mail and told Doris’ sons not to call. She told them that their calls upset their mother.

Doris suffered a serious stroke which left her paralyzed. While in the hospital Sandra convinced Doris that her financial affairs needed attention. Sandra agreed to take care of them if Doris gave her a power of attorney. Doris was confused but agreed to do it “because Sandra asked her.” Doris could not read the form but signed where Sandra placed her hand.

The next day Sandra closed Doris’ bank accounts and opened new ones with only Sandra’s name on them. She wrote numerous checks totaling nearly $50,000.00 to herself, her boyfriend, the casino to pay her debts, and to her other creditors. She also contacted the stockbroker who had managed Doris and Marcus’ stock account for years. She tried to liquidate everything in them (worth over $250,000.00) but was told she did not have authority. The brokerage said the POA was not on their forms.

Meanwhile, the firm contacted Doris’ two sons who lived in other states and local authorities.

The sons were unaware that their mother had suffered a stroke. Both immediately came to the hospital. Sandra refused to let them see Doris without her present. They contacted Doris’ bank and were told that Doris’ accounts were closed by Sandra who had a power of attorney.

The sons went to Doris’ home and found that most of her jewelry was missing. They discovered that Sandra had pawned 32 pieces at a local pawn shop over the previous 9 months and had signed the pawn slips with Doris’ name. They also discovered that a person using Doris’ name had recently purchased a BMW with a check for the total amount. The registration was in Sandra’s name. Police learned that the transaction was
completed by Sandra who said her name was Doris. Sandra had completed the check and signed it with Doris’ name.

Sandra has said that Doris gave her the jewelry and says the bank transactions were legal under the POA. She says she bought the car to drive Doris around. Doris owns a 3 year old car in good working order.
Case 5 - Millie Graham and Phillip

Millie Graham receives weekly visits from a visiting nurse. Millie lives in her home with her son Philip. Philip is paid to take care of Millie, keep the home in order, and make sure that Millie eats properly for her medical condition and takes her medications. On a regular visit to check on Millie’s diabetes and to treat the ulcers on her legs the nurse is unable to get anyone to answer the door. She is concerned as this is her regular time to visit and Millie has never missed a session. Her calls to the home are unanswered.

The nurse looked in a side bedroom window and saw Millie sitting beside a heavy dresser. She raised her arm in response to the nurse’s tap on the window but could not get up. She appeared dirty and disheveled. It was a cold day but all Millie had on was a thin house dress.

The nurse summoned a neighbor and friend the nurse knew had a spare key to the house. The two entered the home. Philip was not there. When they entered the bedroom they discovered that Millie was tied to the dresser. The house was very cold though the house has a working heating system. Millie’s house dress was filthy and caked with feces and urine stains. The bedroom was filthy and the stench was overwhelming.

Millie was confused and drifted in and out of consciousness. She was immediately taken to the hospital and admitted. Hospital staff found she had elevated blood pressure, her diabetes was out of control and she was near death. An examination revealed several Stage 3 and 4 decubitus ulcers over her shoulder and tailbone.

The neighbor reported that he saw Philip leave home 3 days earlier carrying a suitcase. He entered a cab. Cab records indicate he was taken to the airport. The neighbor called Philip on his cell phone and learned that he was in another state visiting friends.
Slide #59

- Case Building Framework
  - The Crime is:
  - The Legal Elements are:
  - For each element, what facts will prove that element...
  - Then for each fact...
The Crime is:

The Legal Elements are:

Element 1:
What facts will prove that element (list facts)?
   a. Who will say that fact?
   b. What evidence proves that fact?
   c. Is the information corroborated?
   d. Is the information/evidence supportive of any other interpretation?
   e. What is/are the likely defense(s)?
   f. How can the defense(s) be overcome?

Element 2:
What facts will prove that element (list facts)?
   a. Who will say that fact?
   b. What evidence proves that fact?
   c. Is the information corroborated?
   d. Is the information/evidence supportive of any other interpretation?
   e. What is/are the likely defense(s)?
   f. How can the defense(s) be overcome?

Element 3??:
### Fact 1:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Fact 2:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Fact 3???:

---

**MODULE 22**

-63-
YOUR ROLE AS WITNESS

TIME ALLOTTED: 45 minutes

Slide #60

Your Role as a Witness

Slide #61

“If it wasn’t written down, it didn’t happen.”

.... and you won’t be credible.
Slide #62

Direct and Cross Examination

Direct Examination
- Questions asked of you by the attorney who has called you to testify
- Usually non-leading questions that ask you to describe what you saw, heard or did

Cross Examination
- Questions that follow direct examination
- Intended to advance the other side’s case theory or to challenge the information (or you as a witness) provided on direct examination
- Leading questions are usually asked
Slide #63

Documentation and Cross Examination

- Review the case of Josephine and William
- Identify what you know
- Make a list of what could be attacked in court especially on cross examination

HANDOUT #9: Tips on Being a Witness

Tips on Being a Witness

<table>
<thead>
<tr>
<th>Issue</th>
<th>Suggestions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attributes of an Effective APS</td>
<td>Prepared</td>
</tr>
<tr>
<td>Witness</td>
<td>Honest</td>
</tr>
<tr>
<td></td>
<td>Careful listener</td>
</tr>
<tr>
<td></td>
<td>Professional</td>
</tr>
<tr>
<td></td>
<td>Not an advocate</td>
</tr>
</tbody>
</table>
| How You Will Be Asked to be a Witness | Not argumentative
Tell only what you know |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subpoena or informal notification depending on local practice</td>
<td></td>
</tr>
</tbody>
</table>
| Steps to Prepare to be a Witness | If applicable, carefully review the file and any notes you may have made
Contact the attorney handling the matter
Schedule time to discuss case, preferably in person, and ideally prior to the court date |
| The Pre-Trial Meeting With Counsel | Determine:
- the nature of the proceeding
- the issues and what the attorney expects to prove through your evidence
- your role—are you being called as an expert or lay witness
- anticipated attacks and perceived weaknesses in the case and with your evidence
- the likely areas of cross-examination
Examine every exhibit you may be asked about on direct or cross
If you are testifying as an expert review any hypothetical question you will be asked to address
Determine if any subjects or evidence have been excluded by the court.
Ask for a specific date and time to testify or to be placed on stand-by status
Be candid about what you can and cannot say. Do not let an attorney put words in your mouth. |
| In Court | Dress appropriately, it will:
- Show you are a professional
- Reflect your credibility |
| When Testifying | Listen carefully
Do not volunteer information
Don’t try to “fake it”
Testify only to what you know
If you don’t know - just say so
Never guess or over reach
If you are asked a yes or no question, respond with a yes or no answer
If you need to expand on an answer, say so and wait for another question if you need to clarify an answer |
Listen to the question carefully and completely before answering
- If you do not understand the question ask to have it repeated or clarified
- If you forget a question you can ask to have it repeated
- Remain calm and professional; do not become angry or emotional
- Refrain from using humor in nearly any courtroom setting; court is a serious place

If an objection is made when a question is asked
- If there is an objection to a question, wait for the court to rule before answering.
  - “Overruled” means answer the question
  - “Sustained” means do not answer
- If you have forgotten the question you can ask to have the question repeated

Can you take notes with you to the witness stand?
- Varies by jurisdiction so check with the attorney calling you
- If permitted, anything you look at may be subject to discovery and review by opposing side’s attorney

What If?
- You forget something:
  - The attorney can refresh your memory
- You misstate something:
  - The attorney can refresh memory
  - The attorney can use a prior inconsistent statement you have made

**HANDOUT #10: Case Scenario - Josephine and William**

**Case Scenario**

Neighbors report that “they are fighting again.” Police arrive and hear Josephine and William, aged 78 and 79 respectively, yelling. They hear William say, “Don’t you ever do
that again.” On entry into the residence, Josephine has marks on her neck and is hoarse; William is scratched on his face and right arm.

They observe empty alcohol bottles on the floor and a broken vase in the corner. There are holes in the wall. Josephine says “he choked me and I defended myself.” William says she threw the vase at me and I grabbed her to prevent getting hurt. She is a wildcat.”

William is arrested; Josephine is treated at the hospital. William has been charged with domestic violence and assault.

Because of their ages and the fact that Josephine has an intellectual disability police contact Adult Protective Services. The APS worker meets Josephine and determines that she needs help in her home while William is out of the house. The worker confirms the information in the police report and observes the condition of the home. She sees the broken vase and holes in the wall in the living room. The worker also sees that Josephine has bruises on her neck and behind her ears.
Slide #64

Cross Examination Areas

- Relationship between the parties
- History between parties
- Details re: wall holes
- Details re: broken vase
- What does "You better make this right, or else it will be like last time" mean?

Slide #65

Cross Examination Areas

- Details re: Josephine’s and William’s injuries
- Why didn’t APS interview William?
- Relative sizes of the parties?
- Underlying medical issues for both?

Slide #66

Excited Utterances/Spontaneous Statements

- Valuable form of evidence
- Statements made while someone is under the effect of an event that produces nervous excitement and before that person has time to deliberate or consider an answer
- Document the context, exact words and behaviors
Excited Utterances/Spontaneous Statements

- Do not try to decide what is and what is not an excited utterance/spontaneous statement; fully document all statements
- Person who heard the statement and saw the declarant’s behaviors testifies rather than the declarant
- The statements of a witness who may not be legally competent to testify may be received in evidence

Ms. Mary 911 Tape

Make notes of statements and behaviors that are the foundation of a well documented excited utterance/spontaneous statement.

01:15:08:22
Madison Gray has testified on direct examination as follows:

**Background**
- Is an APS worker who was assigned the investigation of the matter of Mrs. X and her daughter Marianne
- Has a college degree in social work from the State University
- Has been an APS worker for 3 years and has received training in APS investigations, APS principles, and documentation
- Has conducted about 80 prior investigations of suspected neglect, self-neglect, physical abuse and financial exploitation
- Has had 5 case investigations referred to local law enforcement
- This is the first to proceed to trial

**Received Case**
- Received report of suspected neglect of Mrs. X by her daughter Marianne
- Spoke to neighbor Nancy who said:
  - She and Mrs. X have been friends for 25 years and always used to play bridge until Mrs. X grew increasingly confused and could not remember the game rules. Mrs. X occasionally would wander away.
  - She had seen a major change in Mrs. X’s appearance.
  - About a year earlier Mrs. X’s daughter Marianne moved in to help her
  - Mrs. X was becoming very confused and had serious arthritis so she could no longer write check or maintain her home. Nancy and Mrs. X played bridge until Mrs. X could not remember the game rules. Mrs. X also occasionally wandered away.
Mrs. X came to Nancy’s door and was dirty and crying. She said she was hungry, cold, and alone. Nancy gave Mrs. X food and wrapped her in a blanket.

She walked Mrs. X home and found that she was alone. The house was messy.

Lately Marianne has had a lot of visitors who come and go at all hours of the day. Marianne often leaves for hours or days.

**APS Investigation**

- Went to Mrs. X’s home with Nancy, the neighbor
- Introduced to Mrs. X
- Observations:
  - Mrs. X is dirty.
  - She was not dressed appropriately for the weather.
    - It was a cold day
  - The house is cold and messy.
  - There were photos on a bookcase which showed Mrs. X looking dressed up in a coat, hat, and gloves and standing beside a piano in the living room of her home; other pictures showing the living room looking well furnished with paintings hanging on the wall and photos of family members gathered in the dining room for a meal. The hutch in that photo was not in the home.
  - There was a big pile of mail addressed to Mrs. X on the dining room table which the worker believed had to be at least several months old.

- Conversation with Mrs. X
  - Mrs. X is unable to answer most of the worker’s question.
  - Mrs. X continually addresses her by her adult daughter’s name, Marianne
  - She does not know how long Marianne has been gone
  - She does not know how to contact Marianne
  - She scores 16 on a mini mental status exam

- Actions
  - Arranged for Mrs. X to be medically examined
  - Arranged for Mrs. X to have a temporary caregiver
  - Contacted the court to appoint a temporary guardian/conservator
Slide #71

APS worker didn’t document/know key details

- “Dirty” (clothes, person, odor?)
- “Dressed inappropriately” (what clothing?)
- “Messy house” (what kind of mess, where?)
- “Pile of mail” (what bills included? What else?)

- “Mrs. X couldn’t answer questions” (which questions?)

Slide #72

What Can You Do To Enhance Your Testimony?

- Importance of complete documentation to enhancement of memory and credibility as a witness
- Need to prepare carefully to testify
- Must know case well for court
Note 2 things you have learned:

1. 

2. 

CONCLUDING THE TRAINING DAY

TIME ALLOCATED: 30 minutes

“What two things will you do to enhance your effectiveness when working with the Criminal Justice System?”

Write your ideas in your participant materials.
Slide #75

Concluding Comments

• Final Questions
• Complete the course evaluation
• Thank You for your hard work on behalf of your clients and your communities!

What two things will you do to enhance your effectiveness when working with the Criminal Justice System?
REFERENCES


US Department of Justice, Bureau of Justice Statistics, Office of Justice Programs. (May, 2011). “What is the Sequence of Events in the Criminal Justice System?” Available at: http://bjs.ojp.usdoj.gov/content/justsys.cfm#contents (litigants) and http://www.victimlaw.info/victimlaw/resources/include/BJScjsflowco.pdf (victims).


MODULE 22 -77-