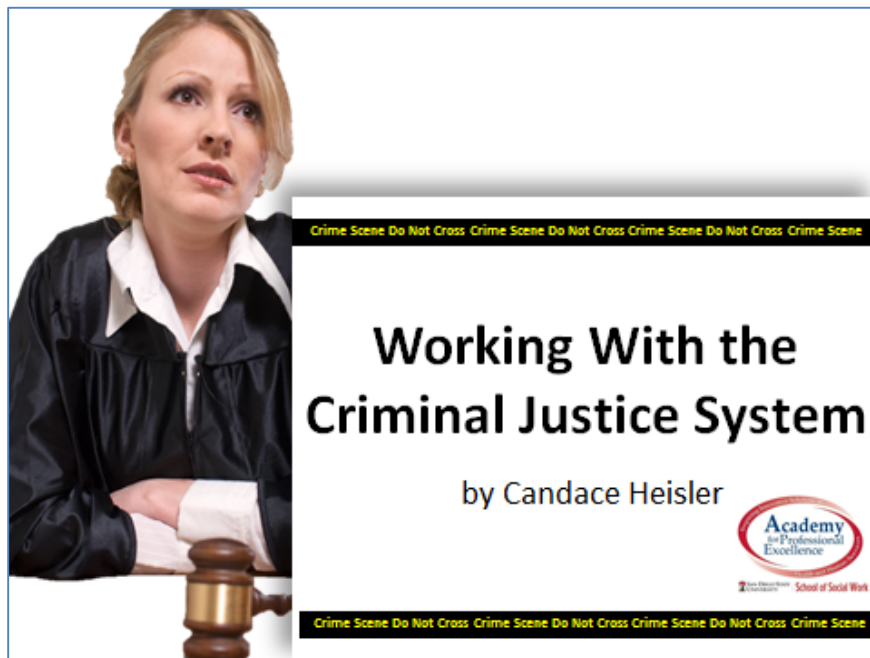


Working with the Criminal Justice System

TRAINER'S GUIDE



MODULE 22

TRAINER'S GUIDE

WORKING WITH THE CRIMINAL JUSTICE SYSTEM



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INTRODUCTION

THE ACADEMY FOR PROFESSIONAL EXCELLENCE

We are pleased to welcome you to the *Working with the Criminal Justice System* Trainer's Guide, developed by MASTER, a program of the Academy for Professional Excellence, under 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, 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 program of the Academy for Professional Excellence which has the overarching goal is 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)

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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

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HOW TO USE THIS TRAINING MANUAL


The course outline, provided in the next section of this manual, is the class schedule used during the piloting of this training. It can be used to help determine how much time is needed to present each section. However, times will vary based on the experience and engagement of the audience.

Customizing the PowerPoint:

Once the Trainer decides on how he/she wants to divide up his/her time in presenting this material, he/she may want to customize their PowerPoint. The Microsoft Office PowerPoint software allows the Trainer to hide any slides he/she does not want to use.

Hide a slide instructions

1. On the **Slides** tab in normal view, select the slide to be hidden.
2. On the **Slide Show** menu, click **Hide Slide**.

The hidden slide icon  appears with the slide number inside, next to the slide you have hidden.

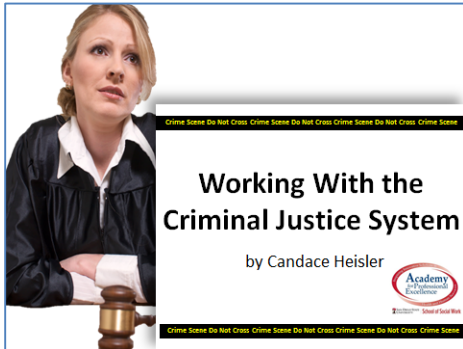
Note: The slide remains in the file, even though it is hidden during the presentation.

Please note that this manual is set up so that the Trainer script/background material is on the same page as the accompanying PowerPoint slide making it easy to also customize the manual to match the slides that will be used. Just remove the unneeded pages.

COURSE OUTLINE

Content	Total Time	Activities	Slides/Handouts
eLearning Pre-work	E-mailed 2 weeks in advance of the in-person training	Research of state laws	<ul style="list-style-type: none"> • State Reporting Laws Activity • The Language of the Criminal Justice System • Common Terms in the Criminal Justice System
Welcome & Introductions: Objectives, Overview of project, Housekeeping Learning Objectives	15 min	Lecture Review CJS Vocabulary	<ul style="list-style-type: none"> • Slides 3-13 • Participant Letter of Consent • ID Code Assignment
Role of the Criminal Justice System and its Intersection with APS	30 min	Lecture, Class Discussion Scenario Activity	<ul style="list-style-type: none"> • Slides 14-17
Communicating and Interacting with the Criminal Justice System	60 min	Lecture, Class Discussion, Scenario Activity	<ul style="list-style-type: none"> • Slides 18-45 • Suggestions for Case Building
Break	15 min		
Rights and LUNCH	70 min plus 1 hour for lunch	Lecture, Class Discussion, Rights Activity	<ul style="list-style-type: none"> • Slides 46-51 • Victims' Bill of Rights
Crimes and their Elements	25 min	Lecture, Crime Elements Activity	<ul style="list-style-type: none"> • Slides 52-57 • Crimes & Their Elements
Applying the Law to the Facts	45 min	Case Study Activity	<ul style="list-style-type: none"> • Slides 58-59 • Case Scenarios • Case Building Framework
Break	10 min		
Your Role as Witness	45 min	Case of Josephine and William	<ul style="list-style-type: none"> • Slides 60-73 • Tips on Being a Witness • Case Scenario- Josephine and William • Outline of Direct Examination
Concluding the Training Day	30 min	Terms and their meanings, Evaluation-Satisfaction Survey	<ul style="list-style-type: none"> • Slides 74-75

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.
9. Document the situational context of spontaneous statements.

TRAINER GUIDELINES

<p>Teaching Strategies</p>	<p>The following instructional strategies are used:</p> <ul style="list-style-type: none"> ◆ eLearning pre-course work ◆ Lecture segments ◆ Interactive exercises (e.g. Table Top Activities, experiential exercises, role plays) ◆ Question/answer periods ◆ Slides ◆ Participant Guide (encourages self-questioning and interaction with the content information) ◆ Transfer of Learning activity
<p>Materials and Equipment</p>	<p>The following materials are provided and/or recommended:</p> <ul style="list-style-type: none"> ◆ Computer with LCD (digital projector) ◆ CD-ROM or other storage device with the slide presentations ◆ Speakers or sound card to play DVD through LCD projector ◆ Easel/Flipchart paper/markers ◆ “In Their Own Words: Domestic Abuse in Later Life,” a video available from the OVC Resource Center at 1-800-851-3420; or on line from www.ncjrs.gov for a cost of \$5.00 for shipping and handling. The item number is 227928. ◆ Trainer’s Guide: This guide includes the course overview, introductory and instructional activities, and an appendix with reference materials. ◆ Participant Guide: This guide includes a table of contents, course introduction, all training activities/handouts, and transfer of learning materials. ◆ State specific handouts prepared by the Trainer. ◆ Post-It Notes (1 pad per table) ◆ Name tags/names tents ◆ Water access/snacks/restroom access/lunch plans
<p>NOTE: Segments written in blue indicate areas where the Trainer will need to do research about the policies and procedures specific to your agency or jurisdiction.</p>	

COURSE TIMELINE

9:00	15min	Welcome & Introductions
9:15	30 min	Role of the Criminal Justice System and its intersection with APS
9:45	60 min	Communicating and Interacting with the Criminal justice System
10:45	15 min	Break
11:00	130 min	Case Building and LUNCH
1:10	25 min	Crimes and their Elements
1:35	45 min	Applying the Law to the Facts
2:20	45 min	Your Role as Witness
3:05	15 min	Break
3:30	30 min	Concluding the Training Day at 4:00

GUIDE FOR THE COURSE ORGANIZER

This course is designed in two parts, the first part is electronic pre-work that needs to be e-mailed to the participants at least two weeks before the second part, the in-person course, is scheduled. The eLearning/pre-work requires the participants to research the state's specific laws and regulations. The course instructor/trainer will also need to research this information so that the training is tailored to the jurisdiction. The in-person training day is formatted to run from 9:00am to 4:00pm with two breaks and an hour for lunch.

The in-person portion of this course is designed to be interactive and skill-building. Adult experiential learning with a minimum of lecturing is featured. There are many small group activities. It is recommended that groups change throughout the day.

The course is designed for new APS workers though it may have application for more experienced workers, trainers, and supervisors. It is suggested that class size be 20-35.

To encourage interaction, it is recommended that the classroom be set up in rounds with groups of five to six people per table. Tables should be numbered to ease movement into work groups. Ideally each table should have an easel and flipchart paper with several colored marking pens. A separate easel and chart should be at the front of the room for use by the Trainer.

Trainers: Ideally there are two trainers; one from APS and a second with experience working in and with the criminal justice system. There is considerable preparation work required particularly by the criminal justice professional (see *Instructions for the Trainer*).

INTRODUCTION TO TRAINING MANUAL

This training will provide new APS workers and their multi-disciplinary partners with the skills to begin working with the criminal justice system (CJS).

Throughout the training manual the terms “Adult Protective Services” and APS are used interchangeably. If that agency is known by a different name in the specific jurisdiction in which the course is being taught the Trainer should adjust the wording accordingly.

The term “law enforcement” is used interchangeably with “LE” and refers to police, sheriffs, and investigative agencies with police authority at the federal, state, local, or tribal levels.

ELEARNING MODULE (PRE-CLASS WORK)

In order to make the most use of in-person class time to build essential skills, APS workers are asked to research and complete three e-mailed assignments two weeks before the in-person class. They are to bring those assignments with them to the in-person class as the information will be used as building blocks for the skill-building exercises.

It is recommended that supervisors be copied on the assignment e-mails. It is important that participants' supervisors are aware of this assignment and allow the participants work time to complete these assignments. This eLearning module is equivalent to four hours of classroom work.

Learning Objectives/Activities to incorporate into eLearning module:

Learning Objective 1: *Distinguish the role of Adult Protective Services from role of law enforcement and prosecution:*

Explanation:

Most states require reporting of suspected elder or vulnerable adult abuse to the CJS or law enforcement and then require these entities to cross-report to one another.

- a. APS workers must understand their reporting duties, the types of abuse that must be reported, eligibility criteria, and policies and procedures for information sharing with the CJS.

- b. APS workers must understand who must report or cross-report to them (including law enforcement) and what information can be provided.
- c. APS workers must also understand that other agencies may have responsibilities to investigate allegations of elder or vulnerable adult abuse (e.g. Regional Centers in California have the responsibility for investigating the abuse of their elderly disabled clients; Community Care Licensing has the responsibility for investigating abuse in some types of facilities; the health department may also be responsible for investigating reports they receive of abuse in specific settings that may overlap with APS.)

Activity 1- State Reporting Laws Activity: Participants review their individual state's reporting laws and complete a grid with various questions. This requires them to research and describe what must be reported to them, their authority and its limits to investigate, what they must cross report, immunity laws for good faith reporting and information sharing with the CJS. Then they review four scenarios and apply their reporting law to these situations. They bring this information with them to the in-person class.



TRAINER NOTE: May need to provide the participants with the specific website address to retrieve the appropriate statutes as these may not be easily located by individuals unfamiliar with working with laws. Please add these to the e-mail introduction to the pre-work if needed.

Learning Objective 2: Recognize how to use common language to be understood by criminal justice system professionals:

Explanation:

- a. APS workers use terms in their work that are not understood by criminal justice system.
- b. These terms may be a barrier to effective cross disciplinary collaboration.
- d. By being able to use terms understood by the criminal justice system there is a greater likelihood cases will be recognized as criminal conduct and investigated and prosecuted.

Activity 2-The Language of the Criminal Justice System: Participants complete an e-mailed activity in which they take common APS terms and asks them to identify their equivalent in the CJS. This information is reviewed in the in-person class.

WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

Learning Objective 3: *Understand terms used in the criminal justice system to enhance the ability of APS to effectively work with the criminal justice system and to educate and reassure APS clients.*

Activity 3- Common Terms in the Criminal Justice System: Participants complete an e-mailed activity in which they are presented with common criminal justice system terms and are asked to match them with their definitions. This activity is also reviewed in class.



TRAINER NOTE: For this activity the Trainer will need to do research about the laws, policies and procedures specific to the agency or jurisdiction (e.g. some states do not have a mandatory reporting statute) and then make needed adjustments to the activity's content as appropriate.

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E-MAIL INTRODUCTION to the eLearning Module (Pre-class work)

At least two weeks before the in-person class, email the following three documents to the registered attendees with this introduction:

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

This eLearning 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 computer-based activities (referred to as eLearning) and a one-day in-class session. The eLearning activities will support the classroom learning and must be completed prior to the in-person class. **Please plan to print out and bring the eLearning materials to the class.**

In the eLearning segments you will research your state's elder or vulnerable adult abuse reporting laws 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 law to these situations.
- ***The 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 are attached to this email.

State Reporting Laws Activity

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; and 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 of this activity presents you with four case scenarios 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 adults, infirm adults, dependent adults, 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 website 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, select your state and the web address for your statutes will appear.



TRAINER NOTE: The Trainer may need to provide participants with direct links to statutes if they are difficult to locate.

PART 1: YOUR REPORTING LAWS

<i>Question</i>	<i>Answer</i>	<i>Code Section or Regulation</i>
1. Does your state have mandatory reporting of elder/vulnerable adult abuse?		
2. What are the eligibility criteria to be an elder or a vulnerable adult?		
3. Who is a mandated reporter?		
4. What kinds of conduct must be reported?		
5. How does your law define: a. Physical abuse b. Sexual abuse c. Caregiver neglect d. Self-Neglect e. Financial abuse f. Emotional or psychological abuse g. Other Reportable Forms		

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6. What is the standard of suspicion to report?		
7. 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?		
8. Is there a time requirement for reporting?		
9. How are reports made?		
10. Is there a penalty for a mandated reporter who fails to report?		
11. Is there immunity for good faith reporting?		
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?		

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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)?		

Part 2: Scenarios

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.
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.
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.
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.

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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?

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The Language of the Criminal Justice System

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

Adult Protective Services Term	Criminal Justice Terminology
Adult Protective Services Worker	<i>APS worker = Reporting party; witness</i>
Alleged Perpetrator (May be called suspected perpetrator or suspected abuser)	
Client	
Collateral	
Emotional or Psychological Abuse	
Financial Exploitation	
Neglect	
Physical Abuse	
Reporting Party	
Sexual abuse	

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Criminal Justice Terms and Their Meanings

Instructions: Match the Term in Column One with Its Definition in Column Two.

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

In-Class Directions for the Trainer

This course must be taught by someone with considerable experience working in and with the criminal justice system. It may be helpful to have an APS Trainer co-teach with a criminal justice professional some or all of this material.

PRIOR TO THE COURSE THE TRAINER WILL NEED TO PREPARE THE FOLLOWING MATERIALS:

- A chart of state specific crimes and their elements that arise in elder and vulnerable adult crimes (See California statutes in the Appendix for a sample)
- Research state specific crime victims' legal rights in criminal cases and create a handout or mini lecture
- Research any state specific elder or vulnerable adult criminal statutes, including elements
- Review the case scenarios to identify state specific crimes
- State specific definitions of burdens of proof
- State specific statutes to memorialize testimony of an elderly or vulnerable adult witness/victim's testimony with cross examination

The materials should be carefully reviewed to assure that legal material applies in the presenting jurisdiction.

EXECUTIVE SUMMARY

HANDOUT #1: 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 does go to court. And they will learn about their own role as a witness in court.

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:

Learning goals – By the end of the 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.

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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.
9. Document the situational context of spontaneous statements.

Transfer of Learning: *Ways supervisors can support the transfer of learning from the training room to on the job.*

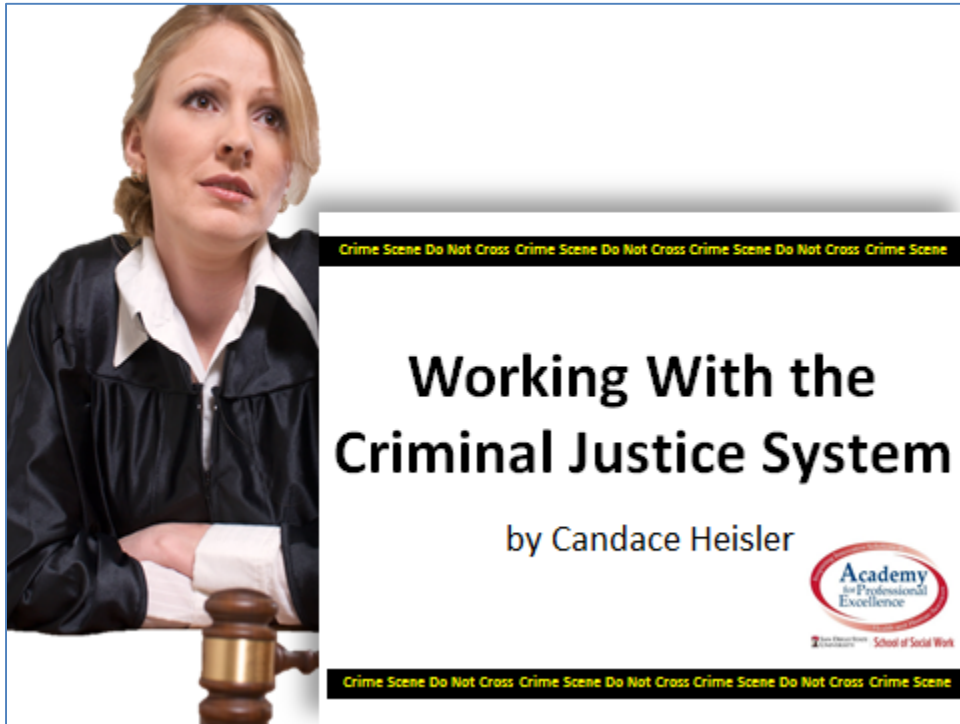
BEFORE the training

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 will 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 time is available, trainees may present an overview of what was learned to other staff members to encourage collaboration and a culture of learning.

PRESENTATION



Pre-Work Activity

Slide #2

Welcome!

*Please complete the Pre-Work
Activity on page 17 of the
participant manual –
“Criminal Justice Terms and Their
Meaning” before class begins*



TRAINER NOTE: As participants enter the training room have this slide up and have participants complete the “CJS Terms and Their Meaning” activity on page 17 of the participant manual before the training begins.

WELCOME AND INTRODUCTIONS



TIME ALLOTTED: 15 minutes

SLIDE #3

This training was produced by the Academy for Professional Excellence under award #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 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

2

TOPIC: OVC language

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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



5

TOPIC: Housekeeping

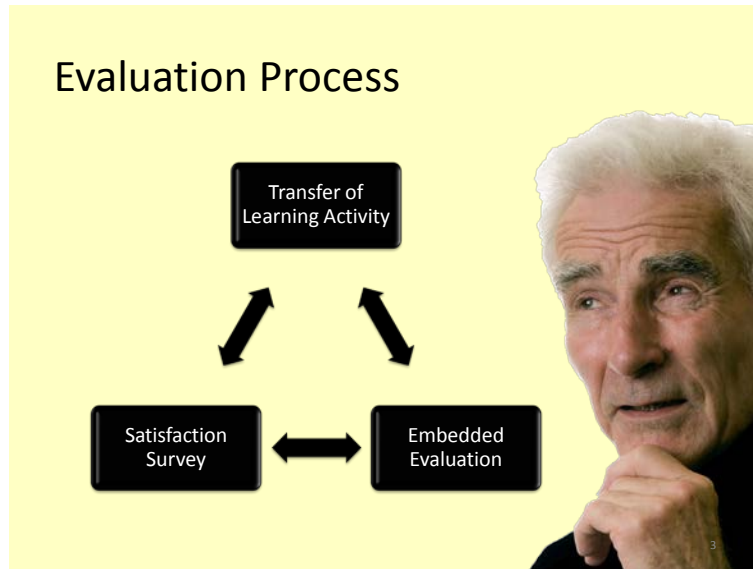


TRAINER NOTE: Please make sure to stay within the allotted time for introductions by keeping it brief. If the Trainer wishes, the Trainer can individualize the PowerPoint slides by adding information in the “notes” section of each slide.

Review Housekeeping Items

- There will be two 10-minute breaks and an hour for lunch today: 12-1 pm in...
- Use the restrooms whenever you need to do so. The restrooms are located at....
- Please turn your cell phones to vibrate for the duration of the training. If you must make or receive a call, please leave the training room and return as quickly as possible. Check the course outline to see what you have missed.

SLIDE #5



TOPIC: Introducing participants to the evaluation process

“For this training, you will be completing a training satisfaction survey, and an evaluation. All of these materials are intended to allow you to practice what you have learned and measure whether the training was effective. We want APS training to become an evidenced-based practice that truly provides the knowledge and skills we believe it provides. The purpose of the evaluation process is more fully explained in your ‘Letter to Participants.’”

HANDOUT #2: Participant Letter of Consent

- Academy for Professional Excellence at San Diego State University School of Social Work, MASTER (Multi-disciplinary Adult Services Training & Evaluation for Results) begun a process of evaluating training delivered to Adult Protective Service workers
- 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 aim to: (1) improve trainings’ effectiveness and relevance to your needs, and help you better serve adults and their families; and (2) see if the training has been effective in getting its points across.
- If you agree to participate, you will fill out a questionnaire administered before and after the training.
- The questionnaires will be coded with a unique identifier system and all responses will be confidential



**HANDOUT #2:
Participant Letter of
Consent**

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 training 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 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.

WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

If you agree to participate, you will fill out a questionnaire 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

SLIDE #6

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 **29**th

Trainee ID Code

S	M	I	A	L	I	2	9
---	---	---	---	---	---	---	---

4

TOPIC: Developing an ID code

We are NOT evaluating you and no one from your agency will see your individual responses. To keep your responses confidential, we are going to develop your personal ID code. Follow along with your ID Assignment Handout and write in your ID code on the Handout.

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:
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?

CONTINUED

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.

**HANDOUT #3:
ID Code Assignment**

Trainee ID Code

Date / /
M M D D Y Y

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:

4. 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.

___ ___ ___

5. 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.

___ ___ ___

6. 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



TOPIC: Introductions

The Trainer welcomes participants to the training and briefly introduces self (selves if more than one Trainer) with particular emphasis on experience working with or within the criminal justice system.

Slide #8



Have You

- Worked with law enforcement?
- Worked with prosecutors?



Show of hands

Topic: Experience working with law enforcement and prosecutors



Participants are asked to indicate (by show of hands)

- “How many of you have worked with law enforcement?”
- “How many of you have worked with prosecutors?”

Slide #9

Vocabulary of CJS



TOPIC: Vocabulary of Criminal Justice System

The Trainer states, “As we begin this course it’s important to understand and use the language of the CJS. Many of these terms will be explored in depth during in the sections to come. This activity is a vocabulary “icebreaker”.

Refer participants to the pre-work activity “Criminal Justice Terms and Their Meaning” on page 17 of the Participant Manual and quickly review the correct answers. (5 minutes)

WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

Criminal Justice Terms and Their Meanings *(with correct answers)*

Term	Definition
Felony (k)	a. Ruling on an objection that the witness does not have to answer the question
Misdemeanor (i)	b. More evidence in favor of guilt than against it
Right of Allocution (e)	c. Anything with a tendency in reason to make something in dispute more probable
Discovery (g)	d. An out of court statement offered to prove the truth of what it contains
Restraining Order (may be called protection order, protective order, order of protection) (j)	e. The right to speak and provide personal views at sentencing (may include victim impact statement)
Subpoena (q)	f. Criminal defendant's constitutional right to cross examine witnesses called by the prosecution
Probable cause (b)	g. The right to receive certain information from the other side in a criminal case
Hearsay (d)	h. Ruling on an objection that requires the witness to answer the question that was asked
Arraignment (m)	i. A crime punishable by no more than a year in county jail, a fine, or both

WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

Direct examination (p)	j. Civil order to provide specific protection such as stay away from specific persons or locations, no contact, or prohibiting certain behaviors
Defendant (n)	k. Crime punishable by imprisonment in state prison or death
Right of confrontation (f)	l. Burden of proof required of the prosecution in a criminal case
Beyond a reasonable doubt (l)	m. The first court appearance in a criminal case
Evidence (c)	n. Person charged with a crime
Overruled (h)	o. Evidence from which an inference must be drawn to prove a fact or element that must be established
Circumstantial Evidence (o)	p. The testimony first elicited from a witness
Sustained (a)	q. Court order requiring a person to appear as a witness in an action or to produce records

Slide #10



Topic: The Criminal Justice System



The Trainer asks "What is the criminal justice system?"

The Trainer should take two to three answers. Then quickly show (animated) slide with information: The Criminal Justice System includes:

- Law Enforcement: investigates alleged criminal conduct and make arrests.
- Prosecution: initiates and prosecutes cases on behalf of the local, state, or federal government against charged persons. May advise law enforcement and draft warrants.
- Probation: state or county agencies charged with supervising convicted persons.
- Victim Witness Assistance Program (VWAP): program that provides information and aid to persons who have suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime. APS may be coordinating victim services through them or with them

Slide #11

Course Goal

Improve your ability to successfully work with the criminal justice system



Topic: Course Goal

The purpose of this training day is to improve your ability to successfully work with the criminal justice system.



The Trainer asks: "Why is working with criminal justice important to successful work in APS?"

Possible answers:

- CJS prosecutes perpetrators
- CJS can remove perpetrators
- CJS provides stay away orders, restraining orders, etc.
- CJS provides assistance to APS by conducting welfare checks
- CJS provides assistance gaining entry to victim's home
- CJS keeps the peace when APS interviews dangerous individual

Slides #12 and #13

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

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



Topic: Learning Objectives

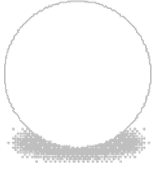
Briefly review the course learning objectives

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
 - e. Name four things that APS can do for abuse victims when the case has been accepted for prosecution.
 - f. Name four ways that APS can advocate for abuse victims with the criminal justice system
5. Identify the rights of victims and defendants:
 - e. List a minimum of three rights of all adults
 - f. 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.
9. Document the situational context of spontaneous statements.


ROLE OF THE CRIMINAL JUSTICE SYSTEM AND ITS INTERSECTION WITH APS



TIME ALLOTTED: 30 minutes

Slide #14

Mrs. G



What is the role of APS?
What is the role of Law Enforcement?



See page 29 in the Participant Manual

Topic: Mrs. G- Role of the Criminal Justice System (15 minutes)

Guided Discussion: The Trainer leads a class discussion highlighting the roles of law enforcement and APS using a case scenario on page 29 of the Participant Manual. The Trainer should give the group time to review the scenario telling participants to make notes as to the roles of LE and APS as they consider the scenario. The Trainer should title one page of flipchart paper “Role of LE” and a second “Role of APS”

Give the participants 3-5 minutes to read and make notes. The Trainer leads a discussion of the role of LE and APS listing group answers on the respective page of chart paper. The total discussion should be around 5-7 minutes. The Trainer teaches

CONTINUED

WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

back any missed roles (3-5 minutes) for a total for the entire activity of 15 minutes.

Scenario: Mrs. G. is a 72-year-old 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?

Possible answers:


APS: Assessment, emergency placement if needed, determine need for a capacity assessment, refer to law enforcement, develop service plan if desired by client (and if client has capacity).

What is the role of Law Enforcement?

Possible answers:

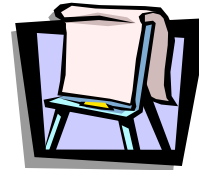

Law Enforcement: Take incident report, investigate, interview victim, interview suspect, determine if crime occurred, identify the offender, locate offender, arrest, interview witnesses and locate evidence including medical records, present case to prosecution for their action. Provide emergency protective orders.

Slide #15



Class Discussion

Where do the roles of
APS and the criminal
justice system
intersect?



Intersection

Topic: Where do the roles of APS and the Criminal Justice System Intersect
(15 minutes)

The Trainer leads a discussion of the question “Where do the roles of APS and the criminal justice system intersect? When do they work together?”

Trainer should note responses on chart paper. Possible responses include:

- Well-being or welfare checks
- Safety backup for APS
- Obtain information in advance about prior calls and the parties from law enforcement
- Involuntary mental health commitments (APS identifies a situation in which a subject may be in need of involuntary mental health commitment which APS cannot initiate but LE can. LE must assess person and determine if the subject should be transported to a facility for evaluation)
- Cross reporting as required by state law
- If a criminal case, to gather information, identify sources of evidence and information, documentation in the APS file
- Arrange for mental capacity evaluation of the elder victim if needed
- Testify in court as a witness
- Arrange for services to meet victim's on-going needs for services, assistance, housing, etc.

CONTINUED


WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

- Provide information regarding the suspect including relationship, role, strength of ties to victim, underlying problems such as substance abuse, mental health problems, employment history to assist prosecution and the court in making pretrial release decisions, issuance of protective orders, sentencing recommendations, and terms of probation

Slide #16

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



TOPIC: Intersecting Roles

The Trainer should briefly highlight any items not mentioned by class members.

Slide #17



Questions

- Can APS share information with law enforcement?
- Is everything in the APS file provided to law enforcement?

TOPIC: Questions



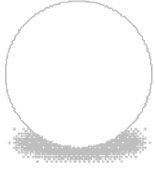
Ask the class, based on their eLearning review of their reporting law:

- “Can APS share information with law enforcement?”
- “Is everything in the APS file provided to law enforcement?”
 - If not mentioned by class, the Trainer should highlight if name of a mandated reporter is shared (absent a court order) and make sure the class members are clear on this requirement.



TRAINER NOTE: As part of the pre-course preparation the Trainer should review state’s reporting laws to determine if APS is authorized to share information from its investigation (or prior investigations) with law enforcement officials and any limits on information sharing (e.g., in many states the name of the mandated reporter is confidential unless a court orders disclosure).

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”.



TOPIC: The Criminal Justice System

The Trainer should begin section by indicating that the Criminal Justice System is an 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

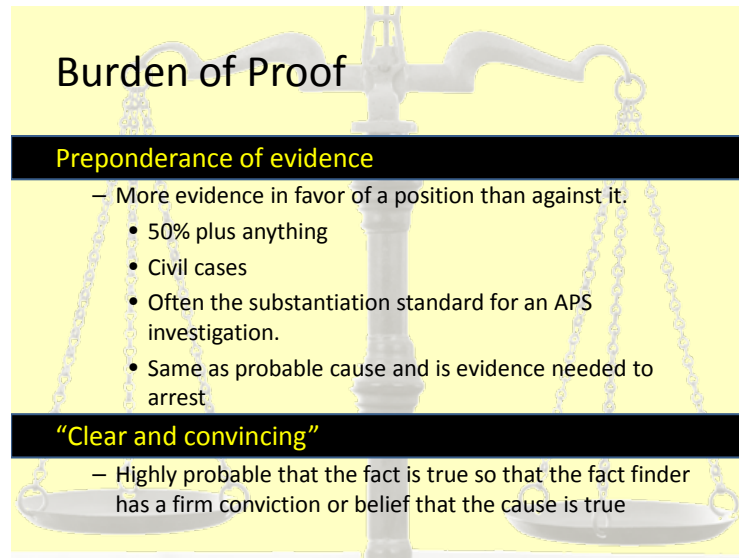
TOPIC: Two Parties; Different Missions

There are two parties each with a very different mission. The prosecution is the representative of the state or government and is responsible for ethically prosecuting crimes. The Defense represents only the defendant and is responsible for protecting that person's rights and attempting to get the best possible outcome for the client.



TRAINER NOTE: The Trainer may want to tailor these definitions to local definitions.

Slides #20 and #21



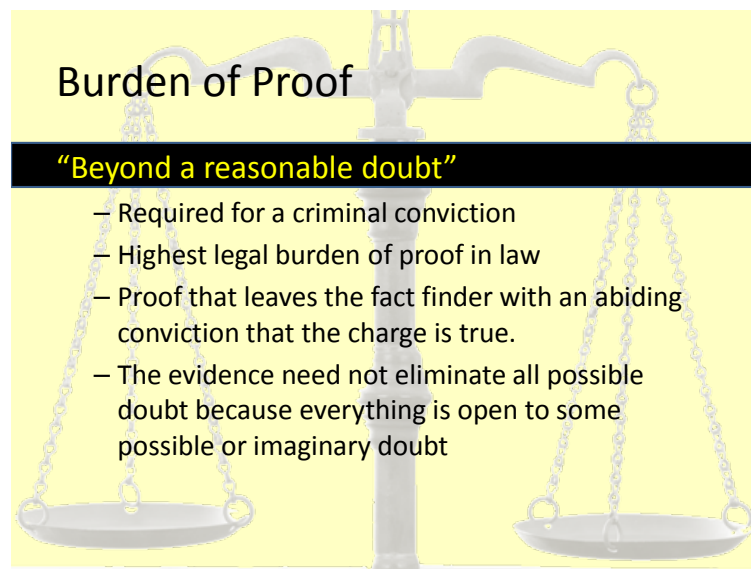
Burden of Proof

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



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

TOPIC: Burden of Proof

In proving charges the side with the duty to prove an allegation must present a certain amount of evidence to prevail, called “the burden of proof” (or amount of evidence required for certain actions). In law there are three burdens of proof. These are:

1. “Preponderance” of evidence (also called “probable cause”) is defined as more evidence in favor of a position than against it. It can be thought of as fifty percent plus anything (no matter how slight). It is the burden of proof that applies in civil

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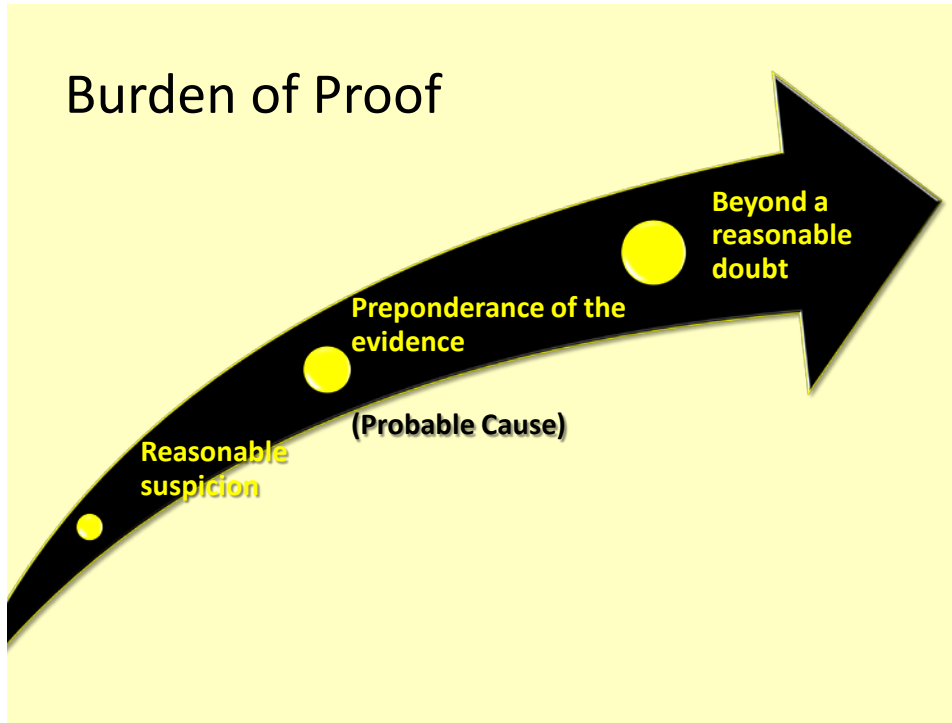
cases. It is often the substantiation standard for an APS investigation. Law enforcement is authorized to make an arrest when they have this amount of evidence though in criminal law the standard is called "probable cause."

2. "Clear and convincing" evidence means it is so highly probable that the fact is true that the fact finder has a firm conviction or belief that the cause is true. This is more than preponderance but less than beyond a reasonable doubt. This burden of proof most often applies in matters of fraud or when seeking equitable relief.
3. "Beyond a reasonable doubt" is the burden of proof required for a criminal conviction. It is the highest legal burden of proof in law. "A defendant in a criminal case is presumed to be innocent. This presumption requires that the People prove a defendant guilty beyond a reasonable doubt (BRD)...Proof BRD is proof that leaves one with an abiding conviction that the charge is true. The evidence need not eliminate all possible doubt because everything in life is open to some possible or imaginary doubt. In deciding whether the People have proved their case BRD, one must impartially compare and consider all the evidence that was received throughout the trial. Unless the evidence proves the defendant is guilty BRD, s/he is entitled to an acquittal and one must find him/her not guilty."
(From California Criminal Jury Instructions, CALCRIM, Instruction number 220)

A briefer way to define it is: "A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly, and carefully considering all of the evidence or lack of evidence."

- Most APS investigations that are litigated in court will be evaluated by the standards of preponderance and beyond a reasonable doubt.

Slide #22



TOPIC: Visual Depiction of Burden of Proof

The Trainer should display the slide "Burden of Proof" as a visual depiction of these standards.

Slide #23

What Level of Proof Do You Have?



See page 33 in the Participant Manual

- 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.

TOPIC: Determining Level of Proof – Mrs. X

Guided Discussion: The Trainer highlights the difference between preponderance of the evidence and beyond a reasonable doubt with this case scenario which is on page 33 of the participant manual.

The Trainer reads the case scenario to the class:

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.

Slide # 24

What Can You Do With This Information?



TOPIC: What Can you do with this Information?



Ask the class: "What level of proof do you have at this point?" The appropriate response is "nothing; this is just an allegation."



Ask "What if anything does this information permit you to do?" Answer should be "investigate." The Trainer should highlight that minimal information is sufficient to begin an investigation.

Slide #25

- 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.

TOPIC: Mrs. X Continues

The Trainer continues to read the case scenario to the class (scenario on page 34 of participant manual):

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?”



TOPIC: Discussion

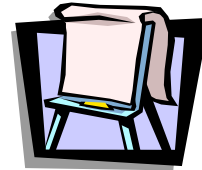


Ask: “What level of proof do you have of neglect and/or financial exploitation?”
The answer should be: “preponderance of the evidence.”

Slide # 27

Class Discussion

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



TOPIC: Discussion



Ask “What more is needed to prove a case of neglect or financial exploitation beyond a reasonable doubt?” The class should call out answers. The Trainer should list them on chart paper. The Trainer should share any missed items (using next slide).

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



TOPIC: Beyond a Reasonable Doubt

The comprehensive list could include:

- Admissions by Marianne
- Neighbors and family members who know that Marianne is supposed to be providing care and paying the bills
- Bank records reflecting dissipation of the assets from Mrs. X's account and their use by Marianne
- Utility companies and other creditors to establish that bills are not being paid
- Information from law enforcement about interactions with Marianne and ongoing drug investigations at the home
- Information from Mrs. X's doctors regarding her capacities and instructions they have given Marianne about Mrs. X's medical condition(s)
- Information from medical providers about Mrs. X's medical condition(s) when APS responded
- Statement by Mrs. X if she is at some point able to answer questions and any excited utterances/spontaneous statements

To close this part of the discussion, refer participants to Handout 4 – Suggestions for Case Building after Crawford v. Washington on page 36 of the participant manual. If time allows, review briefly the main points.

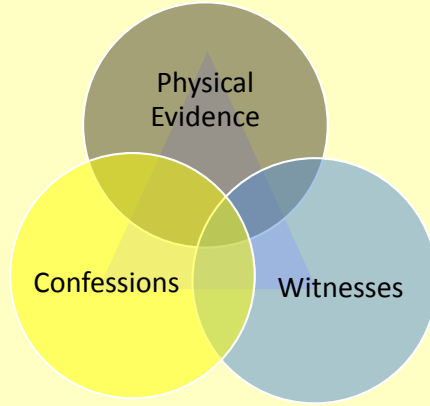
HANDOUT #4: Suggestions for Case Building after Crawford v. Washington

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



TOPIC: Framework for Investigation (10 minutes)

There are three kinds of evidence that are used to build a solid case. They are:

- Physical and biological evidence (Physical evidence refers to any item that comes from a nonliving origin, while biological evidence always originates from a living being. The most important kinds of physical evidence are fingerprints, tire marks, footprints, fibers, paint, and building materials. Biological evidence includes bloodstains and DNA.)
- Witnesses
- Confessions/suspect statements

A solid case has at least two of these three kinds of evidence.



Ask “Which type of evidence is the most reliable?” Answer should be physical evidence because if correctly collected the item does not change and is always available.



Ask “What is problematic about witnesses and confessions?”

CONTINUED

Possible answers include:

Witnesses:

- May not be available
- May forget
- May disappear
- May have allegiances

Confessions:

- May be difficult to get
- May be distrusted
- May be recanted
- Rely on a witness who took the statement to testify and that person may not be available

Slide # 30



TOPIC: What-How

Urge workers to focus on determining how something occurred and identifying who committed the act; avoid focusing on “determining why” during an investigation.



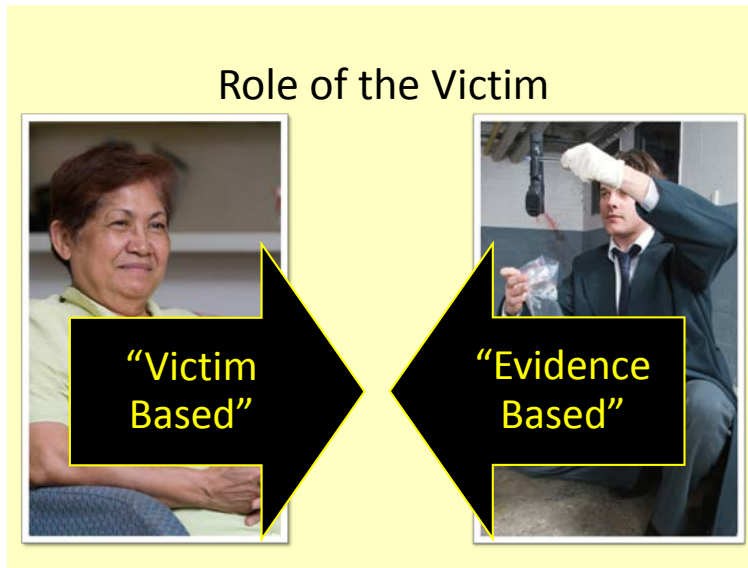
Ask group “What happens if you focus on why too early?”

Possible answers include:

- May discount evidence that does not match one’s own theory
- May fail to ask important questions
- May lose objectivity
- May not know enough at that point

Remind the participants that proof of why (motive) is not an element of proof and never has to be proven.

Slide #31



TOPIC: The Role of the Victim (15 minutes)



Ask “What is the role of the victim in building a case?”

Take one to two brief comments and then say, “many people think elder abuse cases can only be built with a victim who can and will testify. That is true in some cases but not in all cases.”



Ask “Can anyone think of a kind of case that can be successfully built and prosecuted without a victim testifying?”

Responses could include a murder case or a child abuse case involving an infant.

The Trainer comments: “Our goal in case-building should be to build cases that reduce and when possible, eliminate the need for the victim to testify.”

Cases which rely nearly exclusively on a victim testifying are sometimes called “victim-based.” Cases which rely on collection of evidence, identification of other witnesses, and the use of documents and records, rather than depending heavily (or at all) on victim testimony, are called “evidence-based” cases.



Ask “Which type of case is preferable in an elder abuse case, victim-based or evidence-based cases?” The response should be “evidence-based cases.”

Slide #32 & #33

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



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



TOPIC: The Role of the Victim, cont.



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

Possible answers include:

- The criminal justice system may not proceed with a case built exclusively on the victim's information.
 - It is insufficient to prove a case beyond a reasonable doubt (any case).
 - Elder abuse is often a series of events which are difficult for one person to recall and describe.

CONTINUED

WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

- Victims, especially older and vulnerable adults, due to mental, physical health issues and/or trauma may not live long enough to testify.
 - There may be cognitive issues which make victims incompetent to testify.
 - Unique dynamics between and victim and perpetrator may mean victim will recant, minimize, be afraid, or be manipulated.
- The Trainer should highlight the reality that proof beyond a reasonable doubt in all cases (not just elder abuse) can rarely be proven through a single witness.

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



TOPIC: The Role of the Victim, cont.

Cases will vary, some cases will require the victim to testify, others will not. Regardless of victim testimony, the best case is evidence-based.

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

TOPIC: Rules of Evidence

Other important things to consider fall under Rules of Evidence.

- A defendant has a constitutional right to face and confront all witnesses called against them. See 2004 U.S. Supreme Court decision - Crawford v. Washington.
- If the victim is competent to testify they will likely be asked to do so.
- Testimony can be expedited
 - Some states, such as California, use conditional examinations where the witness' testimony is audio and video recorded in a courtroom setting with the Judge, Prosecutor, Defendant and counsel present but the jury is not present. This testimony has the same force and effect as live testimony conducted in person in front of the jury.

Slides #36 & #37

Evidence That May Be Admissible Without the Victim Testifying

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



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

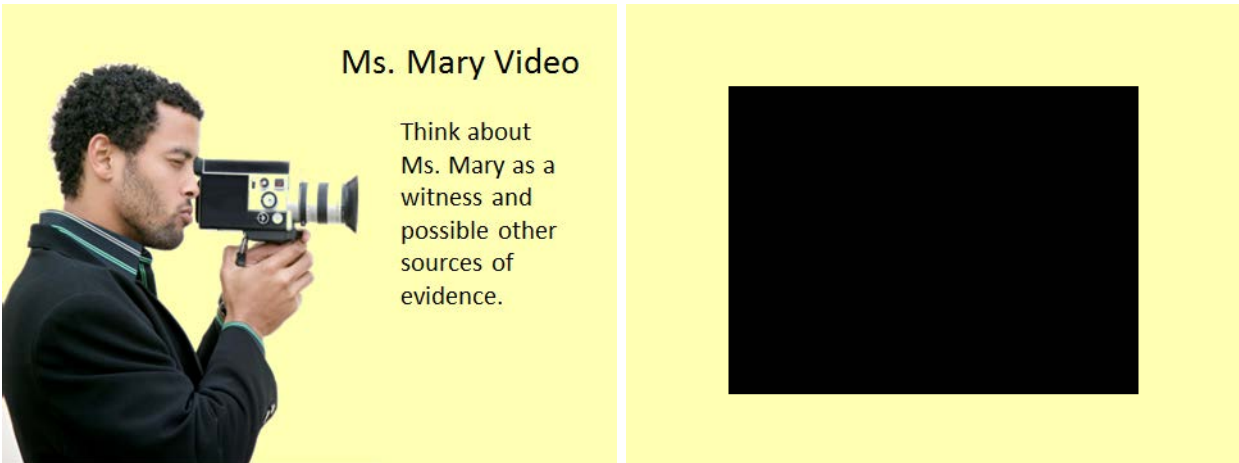
TOPIC: Evidence That May Be Admissible Without the Victim Testifying

To wrap-up, tie back to the beginning of the section and Handout 4 – Suggestions for Case Building after Crawford v. Washington on page 36 of the participant manual.

Review the slides for evidence that may be admissible without the victim testifying:

- Your observations
- A/P statements
- Spontaneous statements
- Business records
- Medical records
- Statement for medical care – diagnosis, treatment, discharge planning
- Chance overheard remarks
- Statement to non-government agents – friends, family, etc.

Slides #38 & #39



TOPIC: Ms. Mary Video

The Trainer directs the class to watch the video clip “Ms. Mary” (“I’m Paying for What He Did”) and directs participants to think about Ms. Mary as a witness and other sources of possible evidence.



TRAINER NOTE: The trainer should acknowledge that the video is difficult to watch and upsetting. The Trainer should also mention the fact that this is a case that was successfully prosecuted.

*Note: the DVD titled “In Their Own Words: Domestic Abuse in Later Life” is available from the OVC Resource Center at 1-800-851-3420; or can be ordered online from www.ncjrs.gov for a cost of \$5.00. The item number is 227928. It includes the stories of five victims and a segment on caregiver stress. The main segment on Ms. Mary is 21 minutes long. There are other short clips from various professionals involved in the case, (e.g. advocates, law enforcement, and prosecutors). APS did investigate the case, substantiate abuse allegations, and locate housing; however that is not on the DVD. Permission to use the video clip in this training is provided by NCALL/WCADV. The DVD was developed under a grant from the Office for Victims of Crime.

Slide #40

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?

TOPIC: Ms. Mary Discussion

After the video clip invite a few comments about reactions to the video.



Ask "What are your concerns about her as a witness?"

Possible answers include:

- Mental capacity
- Will she survive a prosecution?
- Health needs
- Can she handle cross examination?
- Emotional support
- Accommodations
- Will she be believed?



Ask: "Is it likely she would need to testify?" Most likely answer is "yes." She is critical to describing what happened, how she received her injuries, the identity of the assailant, and the impact of the crime.

CONTINUED



Ask “Are there ways to minimize the risk that she will not survive the prosecution?” and “Are there ways to expedite the taking of her testimony with cross examination by the defense?”



TRAINER NOTE: The Trainer should have researched local statutes about trial setting preferences and methods to memorialize testimony from a frail witness that include full opportunity to cross-examine by the defense. Examples include depositions (e.g., Florida) or conditional examinations (California).

We need to remember there are various ways to build a case for prosecution:

- Sometimes the victim must testify.
- Other times the witness will never be able to testify, such as a homicide or where a victim has advanced dementia.
- Some cases are in the middle.

Whatever kind of case, they should still be built as evidence-based cases so the victim's information is corroborated by other evidence and witnesses.

Slide #41

Activity

Mrs. X and Marianne



- 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

TOPIC: Victim-based versus Evidence-based Activity (10 minutes)

Refer to page 41 in the participant manual – Mrs. X and her daughter Marianne (scenario for burden of proof)

Divide the class into table groups. Each table answers these questions:

- Does the victim need to testify?
- What other evidence may exist to prove the case without the victim's testimony or to corroborate the victim's testimony? In the Mrs. X case, how can financial abuse and neglect be proven?

Give tables five minutes to work and have groups report back for a total of 10 minutes.

CONTINUED

Group 2: 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 artwork 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.

Groups Report Back

Possible answers for Mrs. X and Marianne:

Mrs. X: she may not be able testify due to her current capacity. However, if her confusion is the result of treatable conditions such as an infection, dehydration, malnutrition, medication toxicity, etc. with treatment her cognitive function may improve sufficiently so that even if she has some dementia she may still be competent to testify. A diagnosis of dementia by itself, without knowing the degree or how it is affecting the person's memory and perception, does not establish that a person is incompetent to testify. A medical evaluation and a capacity exam is necessary.

CONTINUED



TRAINER NOTE: Please emphasize that a Mini-Mental Status Evaluation is an insufficient tool with which to assess capacity.

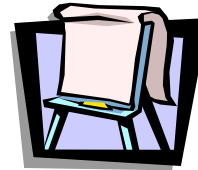
Other Evidence to Corroborate:

- Neighbor as to observations
- Other neighbors and friends to changes in Mrs. X
- Medical assessment
- Medical information given to Marianne to show understanding of Mrs. X's inability to care for self and any care instructions provided
- Bank and other financial records to show that Marianne has failed to pay bills and her misuse of her mother's money
- Creditors to show that bills were not paid
- Prior calls or investigations from law enforcement regarding drugs
- APS worker's file and observations
- Family or friends to testify about missing items such as artwork and piano

Slide #42

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:	Group B:
Once the case is being prosecuted, what is your role as APS in the case?	How can you advocate for your client?

Topic: The Continuing Role of APS (15 minutes)



Ask "Let's assume that your investigation is charged by the prosecutor. Is your role over in that case?" Answer should be "no," as the role continues.

Activity: The Continuing Role of APS

Divide class in half. Each group is assigned one of these questions and given five minutes to develop answers and select its spokesperson.

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?"

If multiple tables are responding to the same question, conduct report back by asking each Group A table for one idea until all responses have been given. Repeat process for Group B tables. Total time for reports back from the groups is 10 minutes

If only one group is doing each question have them put their ideas on flipchart paper and post.

Possible Answers for Group A:

- Work with and through victim witness program advocates

CONTINUED

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- Arrange for transportation to follow-up interviews, court appearances, and 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 own investigation

Possible Answers for Group B:

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

Slide #43

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



TOPIC: Role of APS

Highlight any roles that the group might have missed.



TRAINER NOTE: In some jurisdictions, APS policy maybe that workers do not have a role after the case has been accepted for prosecution. If so, acknowledge that workers need to follow agency policy, however this training has been developed to speak to best practices nationally.

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.

TOPIC: Advocating for your client

Highlight any roles that the group might have missed.

If time allows, play the portion of the Ms. Mary video where the advocates and Ms. Mary talk about the intervention she received.



TRAINER NOTE: This a good point in the training to discuss APS's involvement with multidisciplinary teams (MDT), especially if there is no specific statute in your jurisdiction that allows for APS to discuss cases in a team environment.



Ask "How might APS advocate for their clients to other professionals without breaking confidentiality?"

Here are some ideas to how to use MDTs without breaking confidentiality:

- Don't use client's name (use "Mrs. X")
- Use hypothetical facts to keep the discussion meaning (i.e. assume that Mrs. X is 68-years-old and lives in a mobile home)
- Use MOUs to talk with specific partners
- Talk in generalities ("in similar cases, we have done X")
- Some states have found it helpful to work with legislative partners to enact laws to authorize multidisciplinary teams in elder abuse cases.

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



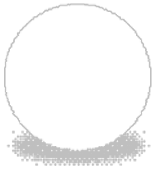
Topic: Lessons Learned

Close-out section by asking:



Ask: "What are two things you have learned during this training so far that you can apply to your jobs?" Have participants note these in their Participant Workbooks.

RIGHTS



TIME ALLOTTED: 130 minutes including lunch break

Slide #46

Rights



TOPIC: Rights

Let the class know that the next section is about victim and defendant 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

Topic: Rights of Defendants and Adults

The Trainer opens the section by stating that 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.



TRAINER NOTE: Prior to class Trainer must have researched the rights of all crime victims under that state's law. The Trainer should create a mini lecture or a handout that is provided to class members.



Ask: "What are some rights of crime victims" and conversely "What are some rights of criminal defendants?"

Possible Answers for crime victims:

According to federal law (18 US code section 3771) a crime victim has the following rights (Available at: <http://www.law.cornell.edu/uscode/text/18/3771>):

- The right to be reasonably protected from the accused.

CONTINUED

WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

- The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
- The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- The reasonable right to confer with the attorney for the Government in the case.
- The right to full and timely restitution as provided in law.
- The right to proceedings free from unreasonable delay.
- The right to be treated with fairness and with respect for the victim's dignity and privacy.

Possible Answers for criminal defendants:

Criminal defendants have the following rights:

- The right to counsel
- The right to jury (or other) trial
- The right against compulsory self-incrimination (be required to testify against themselves)
- The right to call witnesses
- The right to confront accusers
- The right to be free of unlawful search and seizure,
- The right to bail
- The right to the presumption of innocence




TRAINER NOTE: Some rights will be state specific and a handout of those should be prepared for the class.

Slide: #48

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.



TOPIC: Rights of Crime Victims

Highlight any answers that the group did not provide here.

An example of a state specific document of crime victims' rights can be found on page 46 in the participant manual – Handout 5 - California Victims' Bill of Rights, "Marsy's Rights".



TRAINER NOTE: Provide the handout or lecture information developed from your research of your state's crime victim's rights at this point.

EXAMPLE of STATE SPECIFIC DOCUMENT
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.

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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 convicted wrongdoer in 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

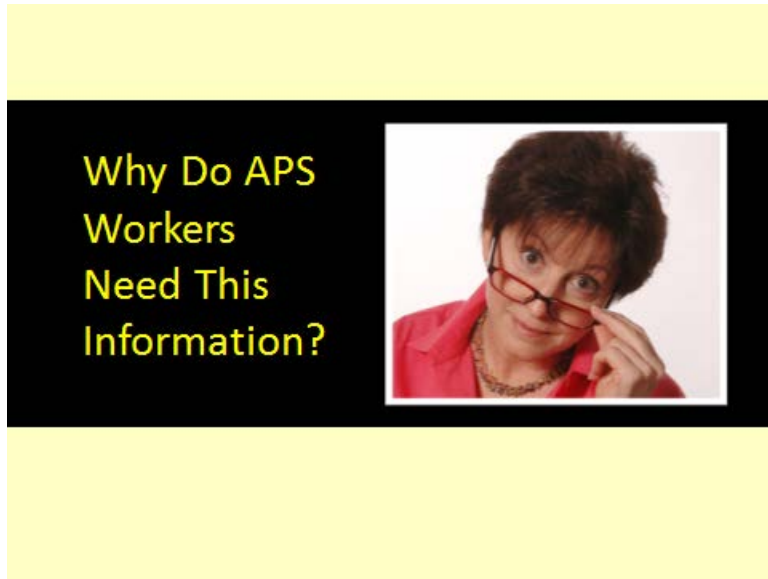
- Counsel
- Jury (or other) trial
- Against compulsory self-incrimination (be required to testify against themselves)
- Call witnesses
- Confront accusers
- Be free of unlawful search and seizure
- Bail
- Presumption of innocence



TOPIC: Rights of Criminal Defendants

Highlight any answers that the group did not provide here.

Slide #50



TOPIC: Why do APS workers need this information?

The Trainer ends this section by asking:



“Why do APS workers need to know this information?”

Take a few comments and conclude with a teach back (next slide).

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



Topic: APS worker

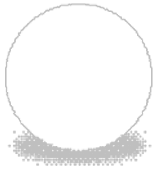
Hopefully the participants have come up with these ideas in answer to the question “Why do APS workers need this information?” from the previous slide. The Trainer should emphasize any reasons they may have missed.

The reasons APS workers need to know the rights of adults and suspects/defendants are to:

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

Remind APS workers that because they are on the front lines, they are uniquely positioned to hold perpetrators accountable and keep elders protected. As such, they are essential players in the criminal case.

CRIMES AND THEIR ELEMENTS



TIME ALLOTTED: 25 minutes

Slide #52

Crimes and Their Elements



TOPIC: Crimes and Their Elements

Let the class know that the next section is a new topic: Crimes and Their Elements.



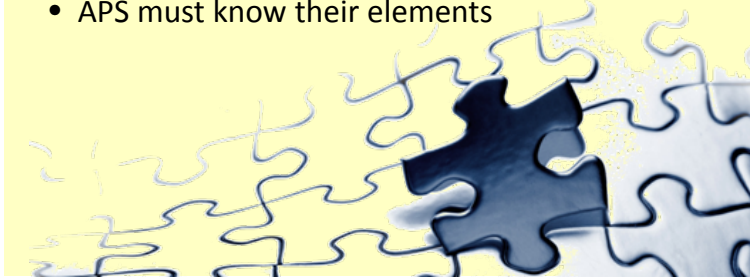
TRAINER NOTE: The Trainer should review and complete the crimes chart as a handout provided to participants at the end of this segment. The Trainer should research how to locate the particular state's criminal statutes and jury instructions online. These web addresses or links should be provided to participants.

It is also suggested that current statute books/printouts or other sources and jury instructions be available in class for participants to see and review.

Slide #53

Crimes

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



TOPIC: Crimes

The Trainer conducts a mini-lecture as follows:

- Crimes are composed of building blocks which are called elements.
- Each element must be proven beyond a reasonable doubt or the crime has not been proven.
- APS not only needs to be familiar with common crimes in order to recognize possible criminal conduct to refer to law enforcement but must know the elements of those crimes to understand how a case will be evaluated by the criminal justice system.

Slides #54 & #55

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)

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;
 - Cohabitant or former cohabitant;
 - 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.

TOPIC: Example Showing Elements of a Crime

Demonstrate to the class how to pull the elements of a crime out of the definition of that crime.

This example is a California domestic violence code that has two elements.

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)

- In this state most criminal laws are found in the _____ (fill in name of code)

To access this State's criminal code go to _____ (list website)

(and refer to code books present in the classroom).

To determine the elements of a crime, read the crime's definition. This will explain what must be proven.

For example: The Trainer should show the class the statute for a crime and ask what the elements are. If the class is unsure guide them through the elements.

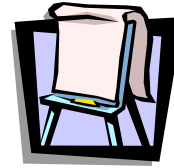
- Another place to identify the elements of a crime is in a state's jury instruction books. Guide the class to the website (if applicable) for criminal jury instructions. Show the jury instructions for the same crime (or another) and ask participants if they can identify the elements.

Slide #57

Crimes and Elements

Working with your assigned statute

- Review the crime and on chart paper list
 - The name of the crime
 - The statute number
 - The elements
- Post your list on the wall



One sheet per group

TOPIC: Crimes and Elements (>10 minutes)

Let's see how this is done.

Activity: Refer participants to page 51 in the participant manual statutes for different kinds of crimes. Trainer note: Handout 6 is an example of criminal statutes from the California Penal Code and can be used as a template.

Assign each table group one crime. Have them review the crime and list on chart paper the name of the crime, the statutory reference (e.g., Penal Code Section 459); and the elements.

Give groups 5-7 minutes to work on this. Circulate the room to be sure that participants are successfully completing the activity. Post answers around the room. **There is no report back for this.** Let the class know that they will be using this information in another activity later in the day.



TRAINER NOTE: To prepare for the activity the Trainer will need to identify the applicable criminal statute for a theft or financial crime (e.g., forgery or embezzlement); a domestic violence crime (e.g., battery in a DV context); a sex crime (e.g., rape, sexual battery); a neglect crime (if it exists); and a psychological abuse crime (e.g., stalking, threats, or pet abuse) and bring sufficient copies of each for the individual table groups.

EXAMPLE of STATE SPECIFIC DOCUMENT Handout 6 – Crimes and Their Elements

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.

Lunch Break (1 hour)

APPLYING THE LAW TO THE FACTS



TIME ALLOTTED: 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



Multiple sheets
per each group

TOPIC: Applying the Law to the Facts (40 minutes)

The trainer welcomes class members back from lunch and introduces new section by saying, “We will now learn how to apply the law to a case scenario.”

Activity: The Trainer should create work groups by having the class members count off by numbers 1-5. Assign each number to a work group.

The Trainer sets up the activity by assigning each group one scenario from their Participant Manual, page. Each group will: 1) identify the crimes; 2) list the evidence to prove each element; and 3) determine if there are questions that need to be asked to clarify any of the elements. The groups should list each crime on a separate page of flipchart paper along with the answers to the remaining questions.

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Groups are given 25 minutes to work and then the reports back are for an additional 15 minutes. *Given the number of possible crimes, it is suggested that each group report out fully (elements and their evidence; additional questions) on only one crime.*



TRAINER NOTE: If there is no criminal neglect statute in your state or if the class is small so four groups make more sense than five, use Scenarios 1-4 and delete Scenario 5.

For each of the scenarios, the Trainer will need to research the exact name of the crimes that would apply and substitute applicable states statutes for the possible crimes listed at the end of each of the cases.

If facts are not clear to participants, please ask them to create a timeline of the case. Explain that often timelines will help clarify the order in which events occurred and suggest possible relationships between events.

HANDOUT #7: Case Scenarios

Case 1 - Mrs. Phillips and Douglas

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.

Possible Crimes:

- Elder Abuse* (physical abuse, possibly neglect)
- Aggravated assault (spiral fracture)
- Aggravated assault or strangulation
- Extortion
- Robbery

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.

Possible crimes:

- Elder financial abuse which depending on jurisdiction may be charged as Financial Exploitation (e.g. Grand Theft, Theft by False Pretenses, Theft, etc.)
- Depending on jurisdiction, Burglary (Entering Bank to Commit Theft)

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.

Possible Crimes:

- Assault (Domestic violence, battery, etc.)
- Criminal Threats (Harassment, etc.)
- Sexual assault (Forcible oral copulation, rape, etc.)

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**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.

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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.

Possible crimes:

- Elder financial abuse, which may be charged as:
  - Theft: jewelry (one or more counts)
  - Forgery (Doris' name on pawn slips)
  - Theft: car
  - Forgery (signed Doris' name on car sale)
  - Burglary (depending on state)
  - Attempted theft (stock account)
  - Theft (bank account)
  - Financial exploitation

### 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.

Possible crimes:

- Criminal neglect (neglect of a dependent adult, abandonment, criminal mistreatment, etc.)

## 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...



### **TOPIC: Brief Recap – Case Building Framework**

To close this section, briefly review the Case Building Framework handout on page 60 of the participant manual. This framework may be useful for participants to use in their casework.

**HANDOUT #8: Case Building Framework**

**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??:**

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## Fact 1:

| Who Will Say It? | What Evidence Supports It? | Is information corroborated? | Alternative interpretations ? | Likely Defense(s)? | How Overcome Defense (s)? |
|------------------|----------------------------|------------------------------|-------------------------------|--------------------|---------------------------|
|                  |                            |                              |                               |                    |                           |

## Fact 2:

| Who Will Say It? | What Evidence Supports It? | Is information corroborated? | Alternative interpretations ? | Likely Defense(s)? | How Overcome Defense (s)? |
|------------------|----------------------------|------------------------------|-------------------------------|--------------------|---------------------------|
|                  |                            |                              |                               |                    |                           |

## Fact 3???:

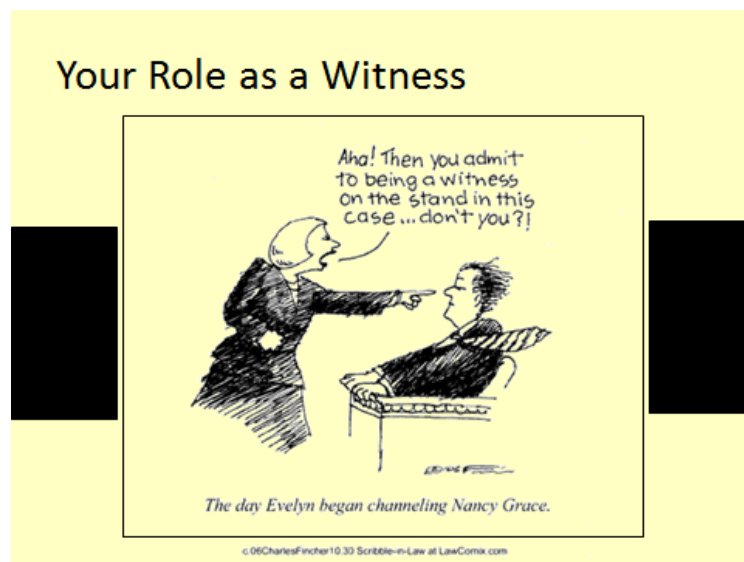
## YOUR ROLE AS WITNESS



**TIME ALLOTTED: 45 minutes**

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Slide #60



**TOPIC: Your Role as a Witness**

Let the class know the next section is on the topic of acting as a witness in court.



Ask the class, "Do you identify with the witness in the cartoon?"

The Trainer should tell the class, "To help you feel better prepared for the role of being a witness, we are providing you with a handout that includes some helpful tips to review before you are called as a witness." Refer participants to page 65, Handout 9 – Tips on Being a Witness.

### Slide #61

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



.... and you won't be credible.

#### **Topic: Importance of documentation** (5 minutes)

The Trainer conducts a mini-lecture on the how the worker's effectiveness as a witness will be dependent on complete documentation.

Points to be covered include:

- Your effectiveness as a witness is dependent on your effectiveness as a documenter of what you see, otherwise perceive, and write down
- “If it wasn’t written down it didn’t happen.” Even if it did, it is unlikely you will be believed.
- Failure to document will draw your credibility and objectivity into question:
  - Everything you say is drawn into question
  - Focus of trial can shift from what happened to what you did or did not do or write down



## 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

#### **Topic: Direct and Cross Examination**

The Trainer introduces section by defining direct and cross-examination.

When testifying as a witness in a court case you will be asked questions on direct and cross-examinations after you have taken the oath to tell the truth.

*Direct Examination:* Questions asked of you by the attorney who has called you to testify. These are usually non-leading questions that ask you to describe what you saw, heard or did.

*Cross-Examination:* Questions that follow direct examination that are 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



**TOPIC: Documentation and Cross Examination** (20 minutes)

**Activity:** Refer participants to page 67 - Case of Josephine and William. Have them work in pairs to review the documentation. Have them write down what they know and what would be attacked in court especially on cross-examination.

Participants work for 10 minutes in pairs; reports back are 10 minutes.

**HANDOUT #9: Tips on Being a Witness**

**Tips on Being a Witness**

| Issue                                                | Suggestions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Attributes of an Effective APS Witness</b></p> | <ul style="list-style-type: none"> <li>○ Prepared</li> <li>○ Honest</li> <li>○ Careful listener</li> <li>○ Professional</li> <li>○ Not an advocate</li> <li>○ Not argumentative</li> <li>○ Tell only what you know</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><b>How You Will Be Asked to be a Witness</b></p>  | <ul style="list-style-type: none"> <li>○ Subpoena or informal notification depending on local practice</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p><b>Steps to Prepare to be a Witness</b></p>       | <ul style="list-style-type: none"> <li>○ If applicable, carefully review the file and any notes you may have made</li> <li>○ Contact the attorney handling the matter</li> <li>○ Schedule time to discuss case, preferably in person, and ideally prior to the court date</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p><b>The Pre-Trial Meeting With Counsel</b></p>     | <ul style="list-style-type: none"> <li>○ Determine:               <ul style="list-style-type: none"> <li>○ the nature of the proceeding</li> <li>○ the issues and what the attorney expects to prove through your evidence</li> <li>○ your role-are you being called as an expert or lay witness</li> <li>○ anticipated attacks and perceived weaknesses in the case and with your evidence</li> <li>○ the likely areas of cross-examination</li> </ul> </li> <li>○ Examine every exhibit you may be asked about on direct or cross</li> <li>○ If you are testifying as an expert review any hypothetical question you will be asked to address</li> <li>○ Determine if any subjects or evidence have been excluded by the court.</li> <li>○ Ask for a specific date and time to testify or to be placed on stand-by status</li> <li>○ <b>Be candid about what you can and cannot say. Do not let an attorney put words in your mouth.</b></li> </ul> |

## WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

|                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>In Court</b>                                          | <ul style="list-style-type: none"> <li>○ Dress appropriately, it will:             <ul style="list-style-type: none"> <li>○ Show you are a professional</li> <li>○ Reflect your credibility</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>When Testifying</b>                                   | <ul style="list-style-type: none"> <li>○ Listen carefully</li> <li>○ Do not volunteer information</li> <li>○ Don't try to "fake it"</li> <li>○ Testify only to what you know</li> <li>○ If you don't know - just say so</li> <li>○ Never guess or over reach</li> <li>○ If you are asked a yes or no question, respond with a yes or no answer</li> <li>○ If you need to expand on an answer, say so and wait for another question if you need to clarify an answer</li> <li>○ Listen to the question carefully and completely before answering</li> <li>○ If you do not understand the question ask to have it repeated or clarified</li> <li>○ If you forget a question you can ask to have it repeated</li> <li>○ Remain calm and professional; do not become angry or emotional</li> <li>○ Refrain from using humor in nearly any courtroom setting; court is a serious place</li> </ul> |
| <b>If an objection is made when a question is asked</b>  | <ul style="list-style-type: none"> <li>○ If there is an objection to a question, wait for the court to rule before answering.             <ul style="list-style-type: none"> <li>○ "Overruled" means answer the question</li> <li>○ "Sustained" means do not answer</li> </ul> </li> <li>○ If you have forgotten the question you can ask to have the question repeated</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Can you take notes with you to the witness stand?</b> | <ul style="list-style-type: none"> <li>○ Varies by jurisdiction so check with the attorney calling you</li> <li>○ If permitted, anything you look at may be subject to discovery and review by opposing side's attorney</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>What If?</b>                                          | <ul style="list-style-type: none"> <li>○ You forget something:             <ul style="list-style-type: none"> <li>○ The attorney can refresh your memory</li> </ul> </li> <li>○ You misstate something:             <ul style="list-style-type: none"> <li>○ The attorney can refresh memory</li> <li>○ The attorney can use a prior inconsistent statement you have made</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

## 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.”

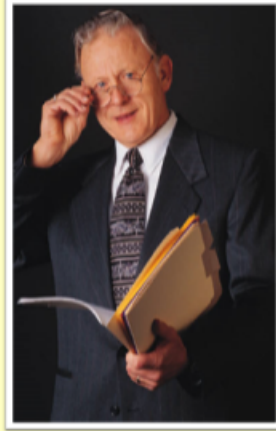
William is arrested; Josephine is treated at the hospital. William has been charged with domestic violence and assault.

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.

## Slides #64 and #65

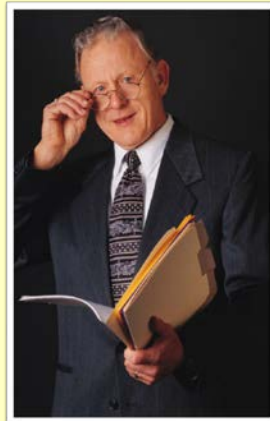
### Cross Examination Areas

- 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?



### 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?



### **TOPIC: Cross Examination Areas**

1. Relationship between the parties—are they spouses or intimate cohabitants? Is William a caretaker? Is he related to Josephine?
2. History between the parties?
3. Where are the holes? What do they look like? What kind of walls? Age of holes (i.e., part of this incident or long standing?) Is there sheet rock dust on the floor beneath the holes?

CONTINUED

## **WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL**

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4. Where is the broken vase? Size, weight? Does Josephine explain how it came to be broken? Was it broken in the current incident or previously?
5. What does "You better make this right, or else it will be like last time" mean? Is it a threat?
6. How did Josephine receive her injuries? What preceded the incident? (e.g., did Josephine attack him earlier with a skillet and then throw the vase?)
7. How did William receive his injuries?
8. Why didn't APS try to interview William? Biased against him? Rush to judgment?
9. Relative sizes of the parties?
10. Underlying medical issues for both?

If comfortable doing so, the Trainer can show how these possible issues could be used on cross-examination (2-3 minutes).

## Slides #66 and #67

### 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



### **TOPIC: Documenting Excited Utterances/Spontaneous Statements** (10 minutes)

The Trainer should state that the training has already talked about the defendant's constitutional right to have witnesses testify and be subject to cross-examination. Usually, statements made outside of court, are inadmissible in court. They are considered "hearsay" statements. Most statements made to an APS worker are not admissible. However there is one very important exception.

The Trainer should comment that one of the most valuable and common forms of evidence are the "excited utterance" or as it is called in some states "spontaneous statements."



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These are statements made while someone is under the effects of an event that produces nervous excitement and before that person has time to deliberate or consider an answer. They can be blurted out without deliberation. Ask participants if anyone has witnessed a car crash. Ask them to think back and remember when they realized what was about to happen and then the cars collided. "Without thinking did you say anything?"

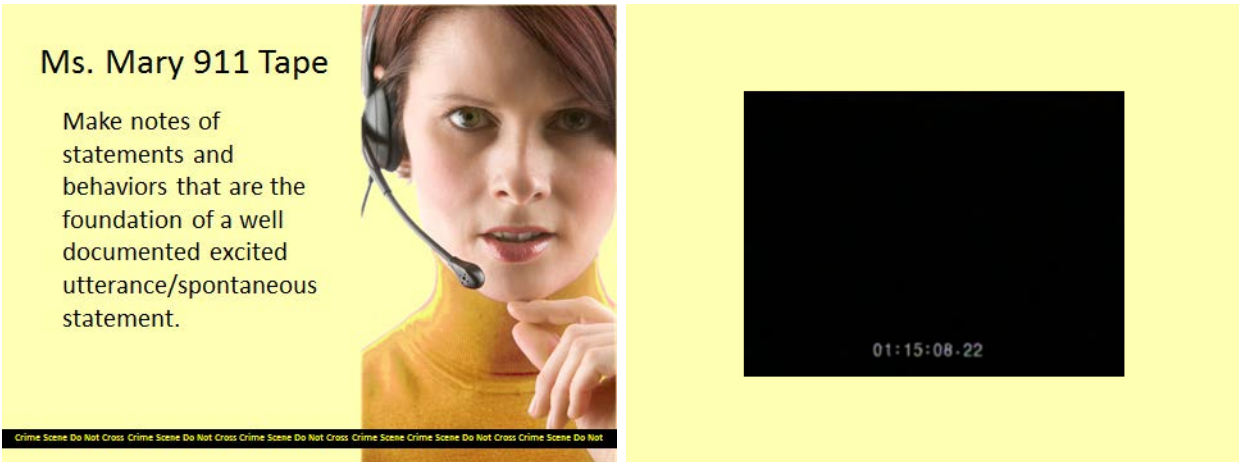
Victims of crimes and other events can experience similar startling events and without thinking can respond in words. The key to capturing these statements is documenting the context, words ("in quotes") **and** the behaviors that show the person is under the stress of excitement from the startling event.

APS workers should not try to decide what is and what is not an excited utterance/ spontaneous statement but should document fully all statements.

These statements are especially important because the person who heard the statement and saw the declarant's behaviors testifies rather than the person who made the statement (the declarant).

Even the statements of a witness who may not be legally competent to testify may be admissible in some jurisdictions.

## Slides #68 & #69



**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

Crime Scene Do Not Cross Crime Scene Do Not Cross Crime Scene Do Not Cross Crime Scene Crime Scene Do Not Cross Crime Scene Do Not

### **TOPIC: 911 Tape**

The Trainer should play the 911 tape of Ms. Mary's call to police. Ask participants to make notes as they listen to her statements and behaviors. After playing the tape, lead a guided discussion of her statements and the behaviors that are foundational to the receipt of these statements as excited utterances/spontaneous statements.

### **Behaviors:**

- Not able to track questions
- Focused on need to get help and sending more than one officer
- Pleading tone

### **Statements:**

- Maniac in the house
- Send two or three, hurry (several times)
- I'm hurt
- Please, please help me
- He's in the house
- He's hurt me. I'm bleeding

## Slide #70

### Cross Examination

Madison Gray



### **TOPIC: Developing Cross Examination Questions**

**Activity:** Refer participants to page 70 of the participant manual. Assign groups to review the outline of direct examination of the APS worker (Madison Grey) in the trial of Marianne accused of neglecting her mother, Mrs. X. Direct groups to work together to develop cross-examination questions for the witness based on the information from the direct examination

The training organizer/coordinator (not the Trainer) should be brought on as a witness “actor” on cross-examination. The witness (who will be acting in the role of the APS worker in the case) should carefully review the direct examination outline (Handout 11) and will admit (consistent with the outline of testimony) not recalling or documenting when appropriate questions are asked (these are noted on the Trainer’s version of Handout 11). The goal is to demonstrate to participants the importance of a thorough investigation supported by complete documentation.

Give class five minutes to prepare questions.

Have class members call out their cross-examination questions and have the “actor” (identified earlier as the training organizer/coordinator, not the Trainer) playing the role of the witness (APS worker) respond.

## HANDOUT #11: Outline of Direct Examination



**TRAINER NOTE:** *Italicized items are in Trainer materials only. These are areas the witness will need to admit not recalling or documenting.*

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 three 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 five case investigations referred to local law enforcement
- This is the first case 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
  - 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

CONTINUED

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- Was introduced to Mrs. X
- Observations:
  - Mrs. X is dirty *though the worker cannot recall if she was wearing dirty clothes, if her person was dirty, and if there was noticeable body odor*
  - She was not dressed appropriately for the weather *though the worker is not sure what she was wearing*
    - It was a cold day
  - The house is cold and messy. *The worker recalls generally that there were clothes and blankets and trash on the floor but cannot be more specific and did not diagram or photograph the house*
  - 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. *The APS worker is uncertain what was in the mail but generally recalls various unpaid bills, bank statements, a box of unopened checks, and many charitable and sweepstakes solicitations. The APS worker is uncertain what bills were included in the pile of mail.*
- Conversation with Mrs. X
  - Mrs. X is unable to answer most of the worker's questions *but the APS worker cannot specifically recall what the questions were*
  - 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 *but the APS worker can't recall which items were missed and specifically how Mrs. X responded to the missed items*
- 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?)



### **TOPIC: Debrief the Mrs. X Case**

The Trainer should highlight any areas that the class missed in developing cross-examination questions.

## Slide #72

### What Can You Do To Enhance Your Testimony?

- Importance of complete documentation to enhance memory and credibility as a witness
- Need to prepare carefully to testify
- Must know case well for court



### **TOPIC: Lessons Learned** (3 minutes)

Finish with a short debrief of lessons learned.

#### Possible Points:

- Importance of complete documentation to enhance memory and credibility as a witness
- Need to prepare carefully to testify
- Must know case well for court

**Slide #73**

**What Can You Apply?**

- What are 2 things you have learned about testifying you can apply to your work?



**TOPIC: What can you Apply? and Break**

Close out this section by having participants list in their Workbook on Page 13 what two things they have learned about testifying that they can apply to their jobs.



Invite two or three participants share their responses (one or two things they have learned about testifying that they can apply to their jobs) with the class. (2-3 minutes)

**Break** (10 minutes)



## CONCLUDING THE TRAINING DAY



**TIME ALLOTTED: 30 minutes**

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### Slide #74

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

Write your ideas in your participant materials.



Label “Next Steps”

### **TOPIC: Next Steps**

The Trainer should ask the participants, “Thinking back over this entire course, what you will do when you get back to your office to begin to enhance your effectiveness when working with the Criminal Justice System?”

Ask that participants to turn to Page 73 of their Participant Workbooks and answer the question: “What two things will you do when you get back to your office to begin to enhance your effectiveness when working with the Criminal Justice System?” (2 minutes)

The Trainer should ask for volunteers to read a selection of entries to the class. Trainer chart on Next Steps chart pad. (3 minutes)

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## Slide #75

### Concluding Comments

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



### **TOPIC: Concluding Comments**

The Trainer should commend the class for their hard work all day. Ask for final questions and comments. (3 minutes)

The Trainer should hand out the course evaluations and give participants time to complete. (10 minutes)

The Trainer closes out the course with final comments and adjournment. (5 minutes)

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**Appendix**

## WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

| Term and Welfare and Institution Code      | Definition                                                                                                                                                                                                                             | Penal Code                                             | Definition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Abandonment</b><br><br>Section 15610.05 | "'Abandonment' means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody." | Crimes against elder or dependent adults<br><br>368 PC | <b>368.</b><br><br>(b) (1) 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.<br><br>(2) If in the commission of an offense described in paragraph (1), the victim suffers great bodily injury, as defined in Section 12022.7, the defendant shall receive an additional term in the state prison as follows:<br>(A) Three years if the victim is under 70 years of age.<br>(B) Five years if the victim is 70 years of age or older.<br>(3) If in the commission of an offense described in paragraph (1), the defendant proximately causes the death of the victim, the defendant shall receive an additional term in the state prison as follows:<br>(A) Five years if the victim is under 70 years of age.<br>(B) Seven years if the victim is 70 years of age or older.<br>(c) Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or |

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|  |  | <p>dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor. A second or subsequent violation of this subdivision is punishable by a fine not to exceed two thousand dollars (\$2,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.</p> <p>(d) Any person who is not a caretaker who violates any provision of law proscribing theft, embezzlement, forgery, or fraud, or who violates Section 530.5 proscribing identity theft, with respect to the property or personal identifying information of an elder or a dependent adult, and who knows or reasonably should know that the victim is an elder or a dependent adult, is punishable as follows:</p> <p>(1) By a fine not exceeding two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, or by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years, or by both that fine and imprisonment, when the moneys, labor, goods, services, or real or personal property taken or obtained is of a value exceeding nine hundred fifty dollars (\$950).</p> <p>(2) By a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, when the moneys, labor, goods, services, or real or personal property taken or obtained is of a value not exceeding nine hundred fifty dollars (\$950).</p> <p>(e) Any caretaker of an elder or a dependent adult who violates any provision of law proscribing theft, embezzlement, forgery, or fraud, or who violates Section 530.5 proscribing identity theft, with respect to the property or personal identifying information of that elder or dependent adult, is punishable as follows:</p> <p>(1) By a fine not exceeding two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, or by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years, or by both that fine and imprisonment, when the moneys, labor, goods,</p> |
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|  |  | <p>services, or real or personal property taken or obtained is of a value exceeding nine hundred fifty dollars (\$950).</p> <p>(2) By a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, when the moneys, labor, goods, services, or real or personal property taken or obtained is of a value not exceeding nine hundred fifty dollars (\$950).</p> <p>(f) Any person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.</p> <p>(g) As used in this section, “elder” means any person who is 65 years of age or older.</p> <p>(h) As used in this section, “dependent adult” means any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. “Dependent adult” includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.</p> <p>(i) As used in this section, “caretaker” means any person who has the care, custody, or control of, or who stands in a position of trust with, an elder or a dependent adult.</p> <p>(j) Nothing in this section shall preclude prosecution under both this section and Section 187 or 12022.7 or any other provision of law. However, a person shall not receive an additional term of imprisonment under both paragraphs (2) and (3) of subdivision (b) for any single offense, nor shall a person receive an additional term of imprisonment under both Section 12022.7 and paragraph (2) or (3) of subdivision (b) for any single offense.</p> <p>(k) In any case in which a person is convicted of violating these provisions, the court may require him or her to receive appropriate counseling as a condition of probation. Any defendant ordered to be placed in a counseling program shall be responsible for paying the expense of his or her participation in the counseling</p> |
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|                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                 | program as determined by the court. The court shall take into consideration the ability of the defendant to pay, and no defendant shall be denied probation because of his or her inability to pay.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Abduction</b><br>Section<br>15610.06 | “Abduction” means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court. | <b>Kidnapping</b><br><br>207 PC | <p>a) Every person who forcibly, or by any other means of instilling fear, steals or takes, or holds, detains, or arrests any person in this state, and carries the person into another country, state, or county, or into another part of the same county, is guilty of kidnapping.</p> <p>(b) Every person, who for the purpose of committing any act defined in Section 288, hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any child under the age of 14 years to go out of this country, state, or county, or into another part of the same county, is guilty of kidnapping.</p> <p>(c) Every person who forcibly, or by any other means of instilling fear, takes or holds, detains, or arrests any person, with a design to take the person out of this state, without having established a claim, according to the laws of the United States, or of this state, or who hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any person to go out of this state, or to be taken or removed therefrom, for the purpose and with the intent to sell that person into slavery or involuntary servitude, or otherwise to employ that person for his or her own use, or to the use of another, without the free will and consent of that persuaded person, is guilty of kidnapping.</p> <p>(d) Every person who, being out of this state, abducts or takes by force or fraud any person contrary to the law of the place where that act is committed, and brings, sends, or conveys that person within the limits of this state, and is afterwards found within the limits thereof, is guilty of kidnapping.</p> |



## WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

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|  |  |  | <p>(e) For purposes of those types of kidnapping requiring force, the amount of force required to kidnap an unresisting infant or child is the amount of physical force required to take and carry the child away a substantial distance for an illegal purpose or with an illegal intent.</p> <p>(f) Subdivisions (a) to (d), inclusive, do not apply to any of the following:</p> <p>(1) To any person who steals, takes, entices away, detains, conceals, or harbors any child under the age of 14 years, if that act is taken to protect the child from danger of imminent harm.</p> <p>(2) To any person acting under Section 834 or 837.</p> <p>(a) Any person who seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away another person by any means whatsoever with intent to hold or detain, or who holds or detains, that person for ransom, reward or to commit extortion or to exact from another person any money or valuable thing, or any person who aids or abets any such act, is guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state prison for life without possibility of parole in cases in which any person subjected to any such act suffers death or bodily harm, or is intentionally confined in a manner which exposes that person to a substantial likelihood of death, or shall be punished by imprisonment in the state prison for life with the possibility of parole in cases where no such person suffers death or bodily harm.</p> <p>(b) (1) Any person who kidnaps or carries away any individual to commit robbery, rape, spousal rape, oral copulation, sodomy, or any violation of Section 264.1, 288, or 289, shall be punished by imprisonment in the state prison for life with the possibility of parole.</p> |
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|                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Kidnapping for ransom, reward, or extortion, or to commit robbery or rape; punishment</p> <p>209 PC</p> | <p>(2) This subdivision shall only apply if the movement of the victim is beyond that merely incidental to the commission of, and increases the risk of harm to the victim over and above that necessarily present in, the intended underlying offense.</p> <p>(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.</p> <p>(d) Subdivision (b) shall not be construed to supersede or affect Section 667.61. A person may be charged with a violation of subdivision (b) and Section 667.61. However, a person may not be punished under subdivision (b) and Section 667.61 for the same act that constitutes a violation of both subdivision (b) and Section 667.61.</p> |
| <p><b>Isolation</b></p> <p>Section 15610.43</p> | <p>“(a) ‘Isolation’ means any of the following:</p> <p>“(1) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.</p> <p>“(2) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she</p> | <p>False imprisonment; elder or dependent adult</p> <p>237PC</p>                                           | <p>(a) False imprisonment is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. If the false imprisonment be effected by violence, menace, fraud, or deceit, it shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170.</p> <p>(b) False imprisonment of an elder or dependent adult by use of violence, menace, fraud, or deceit shall be punishable as described in subdivision (f) of Section 368.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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|  | <p>is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.</p> <p>“(3) False imprisonment, as defined in Section 236 of the Penal Code.</p> <p>“(4) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.</p> <p>“(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.</p> <p>“(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safety.”</p> |  |  |
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| <p><b>Mental Suffering</b></p> <p>Section 15610.53</p> | <p>“‘Mental suffering’ means 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</p>                  | <p>Crimes against elder or dependent adults</p> <p>368 PC</p>                                                               | <p>See “Abandonment”</p>                                                                                                                                                                                                                                                                                                     |
| <p><b>Neglect</b></p> <p>Section 15610.57</p>          | <p>“(a) ‘Neglect’ means either of the following:</p> <p>“(1) The negligent failure of any person having the care or custody of an elder or dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.</p> <p>“(2) The negligent failure of the person themselves to exercise that degree of care</p> | <p>Failure of adult child to provide for indigent parent</p> <p>270c PC</p> <p>Crimes against elder or dependent adults</p> | <p>Except as provided in Chapter 2 (commencing with Section 4410) of Part 4 of Division 9 of the Family Code, every adult child who, having the ability so to do, fails to provide necessary food, clothing, shelter, or medical attendance for an indigent parent, is guilty of a misdemeanor.</p> <p>See “Abandonment”</p> |

## WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

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|  | <p>that a reasonable person in a like situation would exercise.</p> <p>“(b) Neglect includes, but is not limited to, all of the following:</p> <p>“(1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.”(2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.</p> <p>“(3) Failure to protect from health and safety hazards.</p> <p>“(4) Failure to prevent malnutrition or dehydration.</p> <p>“(5) Failure of a person to provide the needs specified in paragraphs (1) to (4), inclusive, for themselves due to ignorance, illiteracy, incompetence, mental limitation, substance abuse, or poor health.”</p> | 368 PC |  |
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## WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

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| <p><b>Physical Abuse</b></p> <p>Section 15610.6</p> | <p>“Physical’ abuse means any of the following:</p> <p>“(a) Assault, as defined in Section 240 of the Penal Code.</p> <p>“(b) Battery, as defined in Section 242 of the Penal Code.</p> <p>“(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined by Section 245 of the Penal Code.</p> <p>“(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.</p> <p>“(e) Sexual assault, that means any of the following:</p> <p>“(1) Sexual battery, as defined in Section 243.4 of the Penal Code.</p> <p>“(2) Rape, as defined in Section 261 of the Penal Code.</p> <p>“(3) Rape in concert, as defined in Section 264.1 of the Penal Code.</p> <p>“(4) Spousal rape, as defined in Section 262 of the Penal Code.</p> | <p>Murder 187PC</p> | <p>a) Murder is the unlawful killing of a human being, or a fetus, with malice aforethought.</p> <p>(b) This section shall not apply to any person who commits an act that results in the death of a fetus if any of the following apply:</p> <p>(1) The act complied with the Therapeutic Abortion Act, Article 2 (commencing with Section 123400) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code.</p> <p>(2) The act was committed by a holder of a physician’s and surgeon’s certificate, as defined in the Business and Professions Code, in a case where, to a medical certainty, the result of childbirth would be death of the mother of the fetus or where her death from childbirth, although not medically certain, would be substantially certain or more likely than not.</p> <p>(3) The act was solicited, aided, abetted, or consented to by the mother of the fetus.</p> <p>(c) Subdivision (b) shall not be construed to prohibit the prosecution of any person under any other provision of law.</p> <p>Every person who, with the intent to cause cruel or extreme pain and suffering for the purpose of revenge, extortion, persuasion, or for any sadistic purpose, inflicts great bodily injury as defined in Section 12022.7 upon the person of another, is guilty of torture.</p> <p>The crime of torture does not require any proof that the victim suffered pain.</p> |
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|  | <p>"(5) Incest, as defined in Section 285 of the Penal Code.</p> <p>"(6) Sodomy, as defined in Section 286 of the Penal Code.</p> <p>"(7) Oral copulation, as defined in Section 288a of the Penal Code.</p> <p>"(8) Sexual penetration, as defined in Section 289 of the Penal Code.</p> <p>"(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:</p> <p>"(1) For punishment.</p> <p>"(2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.</p> <p>3) For any purpose not authorized by the physician and surgeon."</p> | <p>Torture 206 PC</p> <p>Assault 240 PC</p> <p>Battery 242,243 PC</p> | <p>An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.</p> <p>A battery is any willful and unlawful use of force or violence upon the person of another.</p> <p>(a) A battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.</p> <p>(b) When a battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, security officer, custody assistant, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a nonsworn employee of a probation department engaged in the performance of his or her duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, security officer, custody</p> |
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|  |  | <p>assistant, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, nonsworn employee of a probation department, or a physician or nurse engaged in rendering emergency medical care, the battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.</p> <p>(c) (1) When a battery is committed against a custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, or a nonsworn employee of a probation department engaged in the performance of his or her duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a nonsworn employee of a probation department, custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, and an injury is inflicted on that victim, the battery is punishable by a fine of not more than two thousand dollars (\$2,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years.</p> <p>(2) When the battery specified in paragraph (1) is committed against a peace officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman and the person committing the offense knows or reasonably should know that the victim is a peace</p> |
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|  |  | <p>officer engaged in the performance of his or her duties, the battery is punishable by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year or pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, or by both that fine and imprisonment.</p> <p>(d) When a battery is committed against any person and serious bodily injury is inflicted on the person, the battery is punishable by imprisonment in a county jail not exceeding one year or imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.</p> <p>(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. If probation is granted, or the execution or imposition of the sentence is suspended, it shall be a condition thereof that the defendant participate in, for no less than one year, and successfully complete, a batterer’s treatment program, as described in Section 1203.097, or if none is available, another appropriate counseling program designated by the court. However, this provision shall not be construed as requiring a city, a county, or a city and county to provide a new program or higher level of service as contemplated by Section 6 of Article XIII B of the California Constitution.</p> <p>(2) Upon conviction of a violation of this subdivision, if probation is granted, the conditions of probation may include, in lieu of a fine, one or both of the following requirements:</p> |
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|  |  |  | <p>(A) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars (\$5,000).</p> <p>(B) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.</p> <p>For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. If the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property shall not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.</p> <p>(3) Upon conviction of a violation of this subdivision, if probation is granted or the execution or imposition of the sentence is suspended and the person has been previously convicted of a violation of this subdivision and sentenced under paragraph (1), the person shall be imprisoned for not less than 48 hours in addition to the conditions in paragraph (1). However, the court, upon a showing of good cause, may elect not to impose the mandatory minimum imprisonment as required by this subdivision and may, under these circumstances, grant probation or order the suspension of the execution or imposition of the sentence.</p> |
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|  |  |  | <p>(4) The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence so as to display society’s condemnation for these crimes of violence upon victims with whom a close relationship has been formed.</p> <p>(5) If a peace officer makes an arrest for a violation of paragraph (1) of subdivision (e) of this section, the peace officer is not required to inform the victim of his or her right to make a citizen’s arrest pursuant to subdivision (b) of Section 836.</p> <p>(f) As used in this section:</p> <p>(1) “Peace officer” means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.</p> <p>(2) “Emergency medical technician” means a person who is either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses a valid certificate or license in accordance with the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.</p> <p>(3) “Nurse” means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.</p> <p>(4) “Serious bodily injury” means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.</p> <p>(5) “Injury” means any physical injury which requires professional medical treatment.</p> |
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|  |  | <p>(6) “Custodial officer” means any person who has the responsibilities and duties described in Section 831 and who is employed by a law enforcement agency of any city or county or who performs those duties as a volunteer.</p> <p>(7) “Lifeguard” means a person defined in paragraph (5) of subdivision (d) of Section 241.</p> <p>(8) “Traffic officer” means any person employed by a city, county, or city and county to monitor and enforce state laws and local ordinances relating to parking and the operation of vehicles.</p> <p>(9) “Animal control officer” means any person employed by a city, county, or city and county for purposes of enforcing animal control laws or regulations.</p> <p>(10) “Dating relationship” means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.</p> <p>(11) (A) “Code enforcement officer” means any person who is not described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 and who is employed by any governmental subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, who has enforcement authority for health, safety, and welfare requirements, and whose duties include enforcement of any statute, rules, regulations, or standards, and who is authorized to issue citations, or file formal complaints.</p> <p>(B) “Code enforcement officer” also includes any person who is employed by the Department of Housing and Community Development who has enforcement authority for health, safety, and welfare requirements pursuant to the Employee Housing Act (Part 1 (commencing with Section 17000) of Division 13 of the Health</p> |
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|  |  | <p>and Safety Code); the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code); the Manufactured Housing Act of 1980 (Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code); the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code); and the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).</p> <p>(12) “Custody assistant” means any person who has the responsibilities and duties described in Section 831.7 and who is employed by a law enforcement agency of any city, county, or city and county.</p> <p>(13) “Search and rescue member” means any person who is part of an organized search and rescue team managed by a government agency.</p> <p>(14) “Security officer” means any person who has the responsibilities and duties described in Section 831.4 and who is employed by a law enforcement agency of any city, county, or city and county.</p> <p>(g) It is the intent of the Legislature by amendments to this section at the 1981–82 and 1983–84 Regular Sessions to abrogate the holdings in cases such as <i>People v. Corey</i>, 21 Cal. 3d 738, and <i>Cervantez v. J.C. Penney Co.</i>, 24 Cal. 3d 579, and to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, while wearing a police uniform as private security guards or patrolmen and to allow the exercise of peace officer powers concurrently with that employment.</p> |
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|  |  | <p>When a battery is committed against the person of an elder or a dependent adult as defined in Section 368, with knowledge that he or she is an elder or a dependent adult, the offense shall be punishable by a fine not to exceed two thousand dollars (\$2,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.</p> <p>(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).</p> <p>(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching 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).</p> <p>(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>represented that the touching served a professional purpose, 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).</p> <p>(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person’s will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, 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).</p> <p>(e) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars (\$3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.</p> <p>Notwithstanding any other provision of law, any amount of a fine above two thousand dollars (\$2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Department of Fair Employment and Housing for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars (\$2,000) be transmitted to the State Treasury until all fines,</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  |  | <p>including any restitution fines that may have been imposed upon the defendant, have been paid in full.</p> <p>(2) As used in this subdivision, “touches” means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.</p> <p>(f) As used in subdivisions (a), (b), (c), and (d), “touches” means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.</p> <p>(g) As used in this section, the following terms have the following meanings:</p> <p>(1) “Intimate part” means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.</p> <p>(2) “Sexual battery” does not include the crimes defined in Section 261 or 289.</p> <p>(3) “Seriously disabled” means a person with severe physical or sensory disabilities.</p> <p>(4) “Medically incapacitated” means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.</p> <p>(5) “Institutionalized” means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.</p> <p>(6) “Minor” means a person under 18 years of age.</p> <p>(h) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.</p> <p>(i) In the case of a felony conviction for a violation of this section, the fact that the defendant was an employer and the victim was an employee of the defendant shall be a factor in aggravation in sentencing.</p> <p>(j) A person who commits a violation of subdivision (a), (b), (c), or (d) against a minor when the person has a prior felony conviction for a violation of this section shall be guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years and a fine not exceeding ten thousand dollars (\$10,000).</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>Battery against person of elder or dependent abuse; punishment 243.25 PC</p> <p>Sexual battery of serious disabled or medically incapacitated 243.4 PC</p> | <p>(a) (1) Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.</p> <p>(2) Any person who commits an assault upon the person of another with a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than six months and not exceeding one year, or by both a fine not exceeding ten thousand dollars (\$10,000) and imprisonment.</p> <p>(3) Any person who commits an assault upon the person of another with a machinegun, as defined in Section 16880, or an assault weapon, as defined in Section 30510 or 30515, or a .50 BMG rifle, as defined in Section 30530, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.</p> <p>(b) Any person who commits an assault upon the person of another with a semiautomatic firearm shall be punished by imprisonment in the state prison for three, six, or nine years.</p> <p>(c) Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.</p> <p>(d) (1) Any person who commits an assault with a firearm upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years.</p> <p>(2) Any person who commits an assault upon the person of a peace officer or firefighter with a semiautomatic firearm and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years.</p> <p>(3) Any person who commits an assault with a machinegun, as defined in Section 16880, or an assault weapon, as defined in Section 30510 or 30515, or a .50 BMG rifle, as defined in Section 30530, upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for 6, 9, or 12 years.</p> <p>(e) When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance, and it shall be confiscated and disposed of in the manner provided by Sections 18000 and 18005.</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  |  | <p>(f) As used in this section, “peace officer” refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.</p> <p>a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:</p> <p>(1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.</p> <p>(a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.</p> <p>(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL**

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|  |  | <p>(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.</p> <p>(c) (1) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.</p> <p>(2) (A) Any person who commits an act of sodomy when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.</p> <p>(B) Any person who commits an act of sodomy with another person who is under 14 years of age when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 9, 11, or 13 years.</p> <p>(C) Any person who commits an act of sodomy with another person who is a minor 14 years of age or older when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 7, 9, or 11 years.</p> <p>(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.</p> <p>(3) Any person who commits an act of sodomy where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.</p> <p>(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim’s will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for five, seven, or nine years.</p> <p>(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is under 14 years of age, when the act is accomplished against the victim’s will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.</p> <p>(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim’s will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 7, 9, or 11 years.</p> <p>(4) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>Assault with deadly weapon or force likely to produce great bodily injury; punishment</p> <p>245 PC</p> | <p>(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility, as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.</p> <p>(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, “unconscious of the nature of the act” means incapable of resisting because the victim meets one of the following conditions:</p> <p>(1) Was unconscious or asleep.</p> <p>(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.</p> <p>(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraud in fact.</p> <p>(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator’s fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.</p> <p>(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL**

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|  |  |  | <p>disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.</p> <p>(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.</p> <p>(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.</p> <p>(j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>(k) Any person who commits an act of sodomy, where the act is accomplished against the victim’s will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years.</p> <p>As used in this subdivision, “public official” means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.</p> <p>(l) As used in subdivisions (c) and (d), “threatening to retaliate” means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.</p> <p>(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court, however, shall take into consideration the defendant’s ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.</p> <p>(a) Except as provided in subdivision (i), any person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1, upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>Rape; lack of capacity<br/>261(a)(1) PC</p> | <p>child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.</p> <p>(b) (1) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.</p> <p>(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.</p> <p>(c) (1) Any person who commits an act described in subdivision (a) with the intent described in that subdivision, and the victim is a child of 14 or 15 years, and that person is at least 10 years older than the child, is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year. In determining whether the person is at least 10 years older than the child, the difference in age shall be measured from the birth date of the person to the birth date of the child.</p> <p>(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person, with the intent described in subdivision (a), is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year.</p> <p>(a) Except as provided in subdivision (i), any person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>Sodomy; lack of capacity</p> <p>286(g)(h) PC</p> | <p>crimes provided for in Part 1, upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.</p> <p>(b) (1) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.</p> <p>(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.</p> <p>(c) (1) Any person who commits an act described in subdivision (a) with the intent described in that subdivision, and the victim is a child of 14 or 15 years, and that person is at least 10 years older than the child, is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year. In determining whether the person is at least 10 years older than the child, the difference in age shall be measured from the birth date of the person to the birth date of the child.</p> <p>(2) Any person who is a caretaker and commits an act described in subdivision (a) upon a dependent person, with the intent described in subdivision (a), is guilty of a public offense and shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for not more than one year.</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>(d) In any arrest or prosecution under this section or Section 288.5, the peace officer, district attorney, and the court shall consider the needs of the child victim or dependent person and shall do whatever is necessary, within existing budgetary resources, and constitutionally permissible to prevent psychological harm to the child victim or to prevent psychological harm to the dependent person victim resulting from participation in the court process.</p> <p>(e) Upon the conviction of any person for a violation of subdivision (a) or (b), the court may, in addition to any other penalty or fine imposed, order the defendant to pay an additional fine not to exceed ten thousand dollars (\$10,000). In setting the amount of the fine, the court shall consider any relevant factors, including, but not limited to, the seriousness and gravity of the offense, the circumstances of its commission, whether the defendant derived any economic gain as a result of the crime, and the extent to which the victim suffered economic losses as a result of the crime. Every fine imposed and collected under this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs pursuant to Section 13837.</p> <p>If the court orders a fine imposed pursuant to this subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.</p> <p>(f) For purposes of paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c), the following definitions apply:</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>(1) “Caretaker” means an owner, operator, administrator, employee, independent contractor, agent, or volunteer of any of the following public or private facilities when the facilities provide care for elder or dependent persons:</p> <p>(A) Twenty-four hour health facilities, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.</p> <p>(B) Clinics.</p> <p>(C) Home health agencies.</p> <p>(D) Adult day health care centers.</p> <p>(E) Secondary schools that serve dependent persons and postsecondary educational institutions that serve dependent persons or elders.</p> <p>(F) Sheltered workshops.</p> <p>(G) Camps.</p> <p>(H) Community care facilities, as defined by Section 1402 of the Health and Safety Code, and residential care facilities for the elderly, as defined in Section 1569.2 of the Health and Safety Code.</p> <p>(I) Respite care facilities.</p> <p>(J) Foster homes.</p> <p>(K) Regional centers for persons with developmental disabilities.</p> <p>(L) A home health agency licensed in accordance with Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>(M) An agency that supplies in-home supportive services.</p> <p>(N) Board and care facilities.</p> <p>(O) Any other protective or public assistance agency that provides health services or social services to elder or dependent persons, including, but not limited to, in-home supportive services, as defined in Section 14005.14 of the Welfare and Institutions Code.</p> <p>(P) Private residences.</p> <p>(2) “Board and care facilities” means licensed or unlicensed facilities that provide assistance with one or more of the following activities:</p> <p>(A) Bathing.</p> <p>(B) Dressing.</p> <p>(C) Grooming.</p> <p>(D) Medication storage.</p> <p>(E) Medical dispensation.</p> <p>(F) Money management.</p> <p>(3) “Dependent person” means any person who has a physical or mental impairment that substantially restricts his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have significantly diminished because of age. “Dependent person” includes any</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>person who is admitted as an inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code.</p> <p>(g) Paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c) apply to the owners, operators, administrators, employees, independent contractors, agents, or volunteers working at these public or private facilities and only to the extent that the individuals personally commit, conspire, aid, abet, or facilitate any act prohibited by paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c).</p> <p>(h) Paragraph (2) of subdivision (b) and paragraph (2) of subdivision (c) do not apply to a caretaker who is a spouse of, or who is in an equivalent domestic relationship with, the dependent person under care.</p> <p>(i) (1) Any person convicted of a violation of subdivision (a) shall be imprisoned in the state prison for life with the possibility of parole if the defendant personally inflicted bodily harm upon the victim.</p> <p>(2) The penalty provided in this subdivision shall only apply if the fact that the defendant personally inflicted bodily harm upon the victim is pled and proved.</p> <p>(3) As used in this subdivision, “bodily harm” means any substantial physical injury resulting from the use of force that is more than the force necessary to commit the offense.</p> <p>(a) (1) (A) Any person who commits an act of sexual penetration when the act is accomplished against the victim’s will by means of force, violence, duress, menace,</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.</p> <p>(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.</p> <p>(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.</p> |
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|  |  | Lewd or lascivious acts;<br>lack of capacity<br>288 (b2),(c2) PC |  |
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|  |  | Oral copulation;<br>lack of capacity<br>288a(d),(g), (h)<br>PC |  |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>Forcible acts of sexual penetration;<br/>lack of capacity</p> <p>289(b)(c)</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p><b>Financial abuse</b><br/>15610.30. (a)</p> | <p>“(a) ‘Financial abuse’ of an elder or dependent adult occurs when a person or entity does any of the following:</p> <p>“(1) Takes, secretes, appropriates, or retains real or personal property of an elder or dependent adult to a wrongful use or with intent to defraud, or both.</p> <p>“(2) Assists in taking, secreting, appropriating, or retaining real or personal property of an elder or dependent adult to a wrongful use or with intent to defraud, or both.</p> | <p>Burglary<br/>459PC</p>                                                         | <p>Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, as defined in Section 21 of the Harbors and Navigation Code, floating home, as defined in subdivision (d) of Section 18075.55 of the Health and Safety Code, railroad car, locked or sealed cargo container, whether or not mounted on a vehicle, trailer coach, as defined in Section 635 of the Vehicle Code, any house car, as defined in Section 362 of the Vehicle Code, inhabited camper, as defined in Section 243 of the Vehicle Code, vehicle as defined by the Vehicle Code, when the doors are locked, aircraft as defined by Section 21012 of the Public Utilities Code, or mine or any underground portion thereof, 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</p> |

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|  | <p>“(b) A person or entity shall be deemed to have taken, secreted, appropriated, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates or retains possession of property in bad faith.</p> <p>“(1) A person or entity shall be deemed to have acted in bad faith if the person or entity knew or should have known that the elder or dependent adult had the right to have the property transferred or made readily available to the elder or dependent adult or to his or her representative.</p> <p>“(2) For purposes of this section, a person or entity should have known of a right specified in paragraph (1) if, on the basis of the information received by the person or entity or the person or entity’s authorized third party, or both, it is obvious to a reasonable person that the elder or dependent adult has a right specified in paragraph.</p> | <p>Embezzlement</p> <p>503C</p> <p>Forgery</p> <p>470-476PC</p> | <p>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.</p> <p>Embezzlement is the fraudulent appropriation of property by a person to whom it has been intrusted.</p> <p><b>270(a)</b> Every person who, with the intent to defraud, knowing that he or she has no authority to do so, signs the name of another person or of a fictitious person to any of the items listed in subdivision (d) is guilty of forgery.</p> <p>(b) Every person who, with the intent to defraud, counterfeits or forges the seal or handwriting of another is guilty of forgery.</p> <p>(c) Every person who, with the intent to defraud, alters, corrupts, or falsifies any record of any will, codicil, conveyance, or other instrument, the record of which is by law evidence, or any record of any judgment of a court or the return of any officer to any process of any court, is guilty of forgery.</p> <p>(d) Every person who, with the intent to defraud, falsely makes, alters, forges, or counterfeits, utters, publishes, passes or attempts or offers to pass, as true and genuine, any of the following items, knowing the same to be false, altered, forged, or counterfeited, is guilty of forgery: any check, bond, bank bill, or note, cashier’s check, traveler’s check, money order, post note, draft, any controller’s warrant for the payment of money at the treasury, county order or warrant, or request for the payment of money, receipt for money or goods, bill of exchange, promissory note,</p> |
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|  |  | <p>Deceptive ID documentation</p> | <p>order, or any assignment of any bond, writing obligatory, or other contract for money or other property, contract, due bill for payment of money or property, receipt for money or property, passage ticket, lottery ticket or share purporting to be issued under the California State Lottery Act of 1984, trading stamp, power of attorney, certificate of ownership or other document evidencing ownership of a vehicle or undocumented vessel, or any certificate of any share, right, or interest in the stock of any corporation or association, or the delivery of goods or chattels of any kind, or for the delivery of any instrument of writing, or acquittance, release or discharge of any debt, account, suit, action, demand, or any other thing, real or personal, or any transfer or assurance of money, certificate of shares of stock, goods, chattels, or other property whatever, or any letter of attorney, or other power to receive money, or to receive or transfer certificates of shares of stock or annuities, or to let, lease, dispose of, alien, or convey any goods, chattels, lands, or tenements, or other estate, real or personal, or falsifies the acknowledgment of any notary public, or any notary public who issues an acknowledgment knowing it to be false; or any matter described in subdivision (b).</p> <p>(e) Upon a trial for forging any bill or note purporting to be the bill or note of an incorporated company or bank, or for passing, or attempting to pass, or having in possession with intent to pass, any forged bill or note, it is not necessary to prove the incorporation of the bank or company by the charter or act of incorporation, but it may be proved by general reputation; and persons of skill are competent witnesses to prove that the bill or note is forged or counterfeited.</p> <p><b>471.</b></p> |
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## WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

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|  |  | 483.5 PC | <p>Every person who, with intent to defraud another, makes, forges, or alters any entry in any book of records, or any instrument purporting to be any record or return specified in Section 470, is guilty of forgery.</p> <p><b>472.</b><br/>Every person who, with intent to defraud another, forges, or counterfeits the seal of this State, the seal of any public officer authorized by law, the seal of any Court of record, or the seal of any corporation, or any other public seal authorized or recognized by the laws of this State, or of any other State, Government, or country, or who falsely makes, forges, or counterfeits any impression purporting to be an impression of any such seal, or who has in his possession any such counterfeited seal or impression thereof, knowing it to be counterfeited, and willfully conceals the same, is guilty of forgery.</p> <p><b>473.</b><br/>Forgery is punishable by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170</p> <p><b>474.</b><br/>Every person who knowingly and willfully sends by telegraph or telephone to any person a false or forged message, purporting to be from a telegraph or telephone office, or from any other person, or who willfully delivers or causes to be delivered to any person any such message falsely purporting to have been received by telegraph or telephone, or who furnishes, or conspires to furnish, or causes to be</p> |
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## WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

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|  |  | <p>furnished to any agent, operator, or employee, to be sent by telegraph or telephone, or to be delivered, any such message, knowing the same to be false or forged, with the intent to deceive, injure, or defraud another, is punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment.</p> <p><b>475.</b></p> <p>(a) Every person who possesses or receives, with the intent to pass or facilitate the passage or utterance of any forged, altered, or counterfeit items, or completed items contained in subdivision (d) of Section 470 with intent to defraud, knowing the same to be forged, altered, or counterfeit, is guilty of forgery.</p> <p>(b) Every person who possesses any blank or unfinished check, note, bank bill, money order, or traveler's check, whether real or fictitious, with the intention of completing the same or the intention of facilitating the completion of the same, in order to defraud any person, is guilty of forgery.</p> <p>(c) Every person who possesses any completed check, money order, traveler's check, warrant or county order, whether real or fictitious, with the intent to utter or pass or facilitate the utterance or passage of the same, in order to defraud any person, is guilty of forgery.</p> <p><b>476.</b></p> <p>Every person who makes, passes, utters, or publishes, with intent to defraud any other person, or who, with the like intent, attempts to pass, utter, or publish, or who has in his or her possession, with like intent to utter, pass, or publish, any fictitious or altered bill, note, or check, purporting to be the bill, note, or check, or</p> |
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|  |  | <p>other instrument in writing for the payment of money or property of any real or fictitious financial institution as defined in Section 186.9 is guilty of forgery.</p> <p>(a) No deceptive identification document shall be manufactured, sold, offered for sale, furnished, offered to be furnished, transported, offered to be transported, or imported or offered to be imported into this state unless there is diagonally across the face of the document, in not less than 14-point type and printed conspicuously on the document in permanent ink, the following statement:</p> <p>NOT A GOVERNMENT DOCUMENT</p> <p>and, also printed conspicuously on the document, the name of the manufacturer.</p> <p>(b) No document-making device may be possessed with the intent that the device will be used to manufacture, alter, or authenticate a deceptive identification document.</p> <p>(c) As used in this section, "deceptive identification document" means any document not issued by a governmental agency of this state, another state, the federal government, a foreign government, a political subdivision of a foreign government, an international government, or an international quasi-governmental organization, which purports to be, or which might deceive an ordinary reasonable person into believing that it is, a document issued by such an agency, including, but not limited to, a driver's license, identification card, birth certificate, passport, or social security card.</p> <p>(d) As used in this section, "document-making device" includes, but is not limited to, an implement, tool, equipment, impression, laminate, card, template, computer</p> |
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|  |  | <p>Theft, grand theft, petty theft<br/>483,487,488PC</p> | <p>file, computer disk, electronic device, hologram, laminate machine or computer hardware or software.</p> <p>(e) Any person who violates or proposes to violate this section may be enjoined by any court of competent jurisdiction. Actions for injunction under this section may be prosecuted by the Attorney General, any district attorney, or any city attorney prosecuting on behalf of the people of the State of California under Section 41803.5 of the Government Code in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any person.</p> <p>(f) Any person who violates the provisions of subdivision (a) who knows or reasonably should know that the deceptive identification document will be used for fraudulent purposes is guilty of a crime, and upon conviction therefor, shall be punished by imprisonment in a county jail not to exceed one year, or by imprisonment pursuant to subdivision (h) of Section 1170. Any person who violates the provisions of subdivision (b) is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both imprisonment and a fine. Any document-making device may be seized by law enforcement and shall be forfeited to law enforcement or destroyed by order of the court upon a finding that the device was intended to be used to manufacture, alter, or authenticate a deceptive identification document. The court may make such a finding in the absence of a defendant for whom a bench warrant has been issued by the court.</p> <p><b>483.</b></p> |
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|  |  | <p>Except as otherwise provided in Section 26002.5 of the Government Code and Sections 40180.5 and 99151 of the Public Utilities Code, any person, firm, corporation, partnership, or association that shall sell to another any ticket, pass, scrip, mileage or commutation book, coupon, or other instrument for passage on a common carrier, for the use of any person not entitled to use the same according to the terms thereof, or of the book or portion thereof from which it was detached, shall be guilty of a misdemeanor.</p> <p><b>487.</b></p> <p>Grand theft is theft committed in any of the following cases:</p> <p>(a) When the money, labor, or real or personal property taken is of a value exceeding nine hundred fifty dollars (\$950), except as provided in subdivision (b).</p> <p>(b) Notwithstanding subdivision (a), grand theft is committed in any of the following cases:</p> <p>(1) (A) When domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding two hundred fifty dollars (\$250).</p> <p>(B) For the purposes of establishing that the value of domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops under this paragraph exceeds two hundred fifty dollars (\$250), that value may be shown by the presentation of credible evidence which establishes that on the day of the theft domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops of the same variety and weight exceeded two hundred fifty dollars (\$250) in wholesale value.</p> <p>(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding two hundred fifty dollars (\$250).</p> |
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|  |  | <p>Credit card theft<br/>484d-j PC</p> | <p>(3) Where the money, labor, or real or personal property is taken by a servant, agent, or employee from his or her principal or employer and aggregates nine hundred fifty dollars (\$950) or more in any 12 consecutive month period.<br/> (c) When the property is taken from the person of another.<br/> (d) When the property taken is any of the following:<br/> (1) An automobile, horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig.<br/> (2) A firearm.</p> <p><b>488.</b><br/> Theft in other cases is petty theft.</p> <p><b>484.</b><br/> (a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service</p> |
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|  |  | <p>received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.</p> <p>(b) (1) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and that property has a value greater than one thousand dollars (\$1,000) and is not a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 10 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.</p> <p>(2) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and where the property has a value no greater than one thousand dollars (\$1,000), or where the property is a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 20 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.</p> <p>(c) Notwithstanding the provisions of subdivision (b), if one presents with criminal intent identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental of the personal property of another, the presumption created herein shall apply upon the failure of the lessee to return the rental property at the expiration of the lease or rental agreement, and no written demand for the return of the leased or rented property shall be required.</p> <p>(d) The presumptions created by subdivisions (b) and (c) are presumptions affecting the burden of producing evidence.</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>Receiving stolen property</p> <p>496PC</p> | <p>(e) Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.</p> <p>(a) Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in a county jail for not more than one year, or imprisonment pursuant to subdivision (h) of Section 1170. However, if the district attorney or the grand jury determines that this action would be in the interests of justice, the district attorney or the grand jury, as the case may be, may, if the value of the property does not exceed nine hundred fifty dollars (\$950), specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in a county jail not exceeding one year.</p> <p>A principal in the actual theft of the property may be convicted pursuant to this section. However, no person may be convicted both pursuant to this section and of the theft of the same property.</p> <p>(b) Every swap meet vendor, as defined in Section 21661 of the Business and Professions Code, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value in excess of nine hundred fifty dollars (\$950) that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>Unauthorized access to computers and data 502PC</p> | <p>that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be punished by imprisonment in a county jail for not more than one year, or imprisonment pursuant to subdivision (h) of Section 1170.</p> <p>Every swap meet vendor, as defined in Section 21661 of the Business and Professions Code, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value of nine hundred fifty dollars (\$950) or less that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be guilty of a misdemeanor.</p> <p>(c) Any person who has been injured by a violation of subdivision (a) or (b) may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit, and reasonable attorney’s fees.</p> <p>(d) Notwithstanding Section 664, any attempt to commit any act prohibited by this section, except an offense specified in the accusatory pleading as a misdemeanor, is punishable by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170.</p> <p>(a) It is the intent of the Legislature in enacting this section to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems. The Legislature finds and declares that the proliferation of computer technology has resulted in a concomitant proliferation of computer crime and other forms of unauthorized access to computers, computer systems, and computer data.</p> <p>The Legislature further finds and declares that protection of the integrity of all types and forms of lawfully created computers, computer systems, and computer data is</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>vital to the protection of the privacy of individuals as well as to the well-being of financial institutions, business concerns, governmental agencies, and others within this state that lawfully utilize those computers, computer systems, and data.</p> <p>(b) For the purposes of this section, the following terms have the following meanings:</p> <p>(1) “Access” means to gain entry to, instruct, or communicate with the logical, arithmetical, or memory function resources of a computer, computer system, or computer network.</p> <p>(2) “Computer network” means any system that provides communications between one or more computer systems and input/output devices including, but not limited to, display terminals and printers connected by telecommunication facilities.</p> <p>(3) “Computer program or software” means a set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.</p> <p>(4) “Computer services” includes, but is not limited to, computer time, data processing, or storage functions, or other uses of a computer, computer system, or computer network.</p> <p>(5) “Computer system” means a device or collection of devices, including support devices and excluding calculators that are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.</p> <p>(6) “Data” means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit or presented on a display device.</p> <p>(7) “Supporting documentation” includes, but is not limited to, all information, in any form, pertaining to the design, construction, classification, implementation, use, or modification of a computer, computer system, computer network, computer program, or computer software, which information is not generally available to the public and is necessary for the operation of a computer, computer system, computer network, computer program, or computer software.</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  |  | <p>(8) “Injury” means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access, or the denial of access to legitimate users of a computer system, network, or program.</p> <p>(9) “Victim expenditure” means any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, deleted, damaged, or destroyed by the access.</p> <p>(10) “Computer contaminant” means any set of computer instructions that are designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the computer, computer system, or computer network.</p> <p>(11) “Internet domain name” means a globally unique, hierarchical reference to an Internet host or service, assigned through centralized Internet naming authorities, comprising a series of character strings separated by periods, with the rightmost character string specifying the top of the hierarchy.</p> <p>(c) Except as provided in subdivision (h), any person who commits any of the following acts is guilty of a public offense:</p> <p>(1) Knowingly accesses and without permission alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data.</p> <p>(2) Knowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network, or takes or copies any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network.</p> <p>(3) Knowingly and without permission uses or causes to be used computer services.</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>(4) Knowingly accesses and without permission adds, alters, damages, deletes, or destroys any data, computer software, or computer programs which reside or exist internal or external to a computer, computer system, or computer network.</p> <p>(5) Knowingly and without permission disrupts or causes the disruption of computer services or denies or causes the denial of computer services to an authorized user of a computer, computer system, or computer network.</p> <p>(6) Knowingly and without permission provides or assists in providing a means of accessing a computer, computer system, or computer network in violation of this section.</p> <p>(7) Knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network.</p> <p>(8) Knowingly introduces any computer contaminant into any computer, computer system, or computer network.</p> <p>(9) Knowingly and without permission uses the Internet domain name of another individual, corporation, or entity in connection with the sending of one or more electronic mail messages, and thereby damages or causes damage to a computer, computer system, or computer network.</p> <p>(d) (1) Any person who violates any of the provisions of paragraph (1), (2), (4), or (5) of subdivision (c) is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.</p> <p>(2) Any person who violates paragraph (3) of subdivision (c) is punishable as follows:</p> <p>(A) For the first violation that does not result in injury, and where the value of the computer services used does not exceed nine hundred fifty dollars (\$950), by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.</p> <p>(B) For any violation that results in a victim expenditure in an amount greater than five thousand dollars (\$5,000) or in an injury, or if the value of the computer services used exceeds nine hundred fifty dollars (\$950), or for any second or subsequent violation, by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.</p> <p>(3) Any person who violates paragraph (6) or (7) of subdivision (c) is punishable as follows:</p> <p>(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars (\$1,000).</p> <p>(B) For any violation that results in a victim expenditure in an amount not greater than five thousand dollars (\$5,000), or for a second or subsequent violation, by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.</p> <p>(C) For any violation that results in a victim expenditure in an amount greater than five thousand dollars (\$5,000), by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.</p> <p>(4) Any person who violates paragraph (8) of subdivision (c) is punishable as follows:</p> <p>(A) For a first violation that does not result in injury, a misdemeanor punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.</p> <p>(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.</p> <p>(5) Any person who violates paragraph (9) of subdivision (c) is punishable as follows:</p> <p>(A) For a first violation that does not result in injury, an infraction punishable by a fine not one thousand dollars.</p> <p>(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.</p> <p>(e) (1) In addition to any other civil remedy available, the owner or lessee of the computer, computer system, computer network, computer program, or data who</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>suffers damage or loss by reason of a violation of any of the provisions of subdivision (c) may bring a civil action against the violator for compensatory damages and injunctive relief or other equitable relief. Compensatory damages shall include any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.</p> <p>(2) In any action brought pursuant to this subdivision the court may award reasonable attorney’s fees.</p> <p>(3) A community college, state university, or academic institution accredited in this state is required to include computer-related crimes as a specific violation of college or university student conduct policies and regulations that may subject a student to disciplinary sanctions up to and including dismissal from the academic institution. This paragraph shall not apply to the University of California unless the Board of Regents adopts a resolution to that effect.</p> <p>(4) In any action brought pursuant to this subdivision for a willful violation of the provisions of subdivision (c), where it is proved by clear and convincing evidence that a defendant has been guilty of oppression, fraud, or malice as defined in subdivision (c) of Section 3294 of the Civil Code, the court may additionally award punitive or exemplary damages.</p> <p>(5) No action may be brought pursuant to this subdivision unless it is initiated within three years of the date of the act complained of, or the date of the discovery of the damage, whichever is later.</p> <p>(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction, nor shall it make illegal any employee labor relations activities that are within the scope and protection of state or federal labor laws.</p> <p>(g) Any computer, computer system, computer network, or any software or data, owned by the defendant, that is used during the commission of any public offense described in subdivision (c) or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in</p> |
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|  |  | <p>Extortion; Fear used to extort; threats inducing 518; 519 PC</p> | <p>violation of subdivision (c) shall be subject to forfeiture, as specified in Section 502.01.</p> <p>(h) (1) Subdivision (c) does not apply to punish any acts which are committed by a person within the scope of his or her lawful employment. For purposes of this section, a person acts within the scope of his or her employment when he or she performs acts which are reasonably necessary to the performance of his or her work assignment.</p> <p>(2) Paragraph (3) of subdivision (c) does not apply to penalize any acts committed by a person acting outside of his or her lawful employment, provided that the employee’s activities do not cause an injury, as defined in paragraph (8) of subdivision (b), to the employer or another, or provided that the value of supplies or computer services, as defined in paragraph (4) of subdivision (b), which are used does not exceed an accumulated total of two hundred fifty dollars (\$250).</p> <p>(i) No activity exempted from prosecution under paragraph (2) of subdivision (h) which incidentally violates paragraph (2), (4), or (7) of subdivision (c) shall be prosecuted under those paragraphs.</p> <p>(j) For purposes of bringing a civil or a criminal action under this section, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in each jurisdiction.</p> <p>(k) In determining the terms and conditions applicable to a person convicted of a violation of this section the court shall consider the following:</p> <p>(1) The court shall consider prohibitions on access to and use of computers.</p> <p>(2) Except as otherwise required by law, the court shall consider alternate sentencing, including community service, if the defendant shows remorse and recognition of the wrongdoing, and an inclination not to repeat the offense.</p> <p><b>518.</b></p> |
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|  |  | <p>False personation<br/>529 PC</p> <p>Counterfeit documents<br/>529.5 PC</p> | <p>Extortion is the obtaining of property from another, with his consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.</p> <p><b>519.</b><br/>Fear, such as will constitute extortion, may be induced by a threat, either:</p> <ol style="list-style-type: none"><li>1. To do an unlawful injury to the person or property of the individual threatened or of a third person; or,</li><li>2. To accuse the individual threatened, or any relative of his, or member of his family, of any crime; or,</li><li>3. To expose, or to impute to him or them any deformity, disgrace or crime; or,</li><li>4. To expose any secret affecting him or them.</li></ol> <p>(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, is punishable pursuant to subdivision (b):</p> <ol style="list-style-type: none"><li>(1) Becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take that bail or surety.</li><li>(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.</li><li>(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.</li></ol> |
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|  |  | <p>Identity Theft<br/>530.5 PC</p> | <p>(b) By a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.</p> <p>(a) Every person who manufactures, sells, offers for sale, or transfers any document, not amounting to counterfeit, purporting to be a government-issued identification card or driver’s license, which by virtue of the wording or appearance thereon could reasonably deceive an ordinary person into believing that it is issued by a government agency, and who knows that the document is not a government-issued document, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.</p> <p>(b) Any person who, having been convicted of a violation of subdivision (a), is subsequently convicted of a violation of subdivision (a), is punishable for the subsequent conviction by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars (\$5,000), or by both the fine and imprisonment.</p> <p>(c) Any person who possesses a document described in subdivision (a) and who knows that the document is not a government-issued document is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) and not more than two thousand five hundred dollars (\$2,500). The misdemeanor fine shall be imposed except in unusual cases where the interests of justice would be served. The court may allow an offender to work off the fine by doing community service. If community service work is not available, the misdemeanor</p> |
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|  |  | <p>shall be punishable by a fine of up to one thousand dollars (\$1,000), based on the person's ability to pay.</p> <p>(d) If an offense specified in this section is committed by a person when he or she is under 21 years of age, but is 13 years of age or older, the court also may suspend the person's driving privilege for one year, pursuant to Section 13202.5 of the Vehicle Code.</p> <p>(a) Every person who willfully obtains personal identifying information, as defined in subdivision (b) of Section 530.55, of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, real property, or medical information without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.</p> <p>(b) In any case in which a person willfully obtains personal identifying information of another person, uses that information to commit a crime in addition to a violation of subdivision (a), and is convicted of that crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did not commit the crime.</p> <p>(c) (1) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment.</p> |
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|  |  | <p>False financial statements;</p> | <p>(2) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person, and who has previously been convicted of a violation of this section, upon conviction therefor shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.</p> <p>(3) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of 10 or more other persons is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.</p> <p>(d) (1) Every person who, with the intent to defraud, sells, transfers, or conveys the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.</p> <p>(2) Every person who, with actual knowledge that the personal identifying information, as defined in subdivision (b) of Section 530.55, of a specific person will be used to commit a violation of subdivision (a), sells, transfers, or conveys that same personal identifying information is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment pursuant to subdivision (h) of Section 1170, or by both a fine and imprisonment.</p> <p>(e) Every person who commits mail theft, as defined in Section 1708 of Title 18 of the United States Code, is guilty of a public offense, and upon conviction therefor</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>punishment<br/>532a PC</p> | <p>shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment. Prosecution under this subdivision shall not limit or preclude prosecution under any other provision of law, including, but not limited to, subdivisions (a) to (c), inclusive, of this section.</p> <p>(f) An interactive computer service or access software provider, as defined in subsection (f) of Section 230 of Title 47 of the United States Code, shall not be liable under this section unless the service or provider acquires, transfers, sells, conveys, or retains possession of personal information with the intent to defraud.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|  |  | <p>Vandalism 594<br/>PC</p>   | <p>(a) Every person who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money, labor, or property, whether real or personal, or who causes or procures others to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtains credit, and thereby fraudulently gets possession of money or property, or obtains the labor or service of another, is punishable in the same manner and to the same extent as for larceny of the money or property so obtained.</p> <p>(b) Upon a trial for having, with an intent to cheat or defraud another designedly, by any false pretense, obtained the signature of any person to a written instrument, or having obtained from any person any labor, money, or property, whether real or personal, or valuable thing, the defendant cannot be convicted if the false pretense was expressed in language unaccompanied by a false token or writing, unless the pretense, or some note or memorandum thereof is in writing, subscribed by or in the handwriting of the defendant, or unless the pretense is proven by the testimony of two witnesses, or that of one witness and corroborating circumstances. This section does not apply to a prosecution for falsely representing or personating</p> |

**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER’S MANUAL**

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|  |  | <p>another, and, in that assumed character, marrying, or receiving any money or property.</p> <p>(a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:</p> <p>(1) Defaces with graffiti or other inscribed material.</p> <p>(2) Damages.</p> <p>(3) Destroys.</p> <p>Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, furnishings, or property belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.</p> <p>(b) (1) If the amount of defacement, damage, or destruction is four hundred dollars (\$400) or more, vandalism is punishable by imprisonment pursuant to subdivision (h) of Section 1170 or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or if the amount of defacement, damage, or destruction is ten thousand dollars (\$10,000) or more, by a fine of not more than fifty thousand dollars (\$50,000), or by both that fine and imprisonment.</p> <p>(2) (A) If the amount of defacement, damage, or destruction is less than four hundred dollars (\$400), vandalism is punishable by imprisonment in a county jail</p> |
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**WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL**

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|  |  | <p>not exceeding one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.</p> <p>(B) If the amount of defacement, damage, or destruction is less than four hundred dollars (\$400), and the defendant has been previously convicted of vandalism or affixing graffiti or other inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7, vandalism is punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment.</p> <p>(c) Upon conviction of any person under this section for acts of vandalism consisting of defacing property with graffiti or other inscribed materials, the court shall, when appropriate and feasible, in addition to any punishment imposed under subdivision (b), order the defendant to clean up, repair, or replace the damaged property himself or herself, or order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti for up to one year. Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children. If the court finds that graffiti cleanup is inappropriate, the court shall consider other types of community service, where feasible.</p> <p>(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine, or any part thereof, by the parent upon a finding of good cause.</p> |
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## WORKING WITH THE CRIMINAL JUSTICE SYSTEM: TRAINER'S MANUAL

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|  |  |  | <p>(e) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design, that is written, marked, etched, scratched, drawn, or painted on real or personal property.</p> <p>(f) The court may order any person ordered to perform community service or graffiti removal pursuant to paragraph (1) of subdivision (c) to undergo counseling.</p> <p>(g) This section shall become operative on January 1, 2002.</p> |
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