

Trainer Manual



Working with the Criminal Justice System



Creating experiences that transform the heart, mind and practice.

APS- Working with the Criminal Justice System



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**Curriculum Developer 2013
Version 1
Candace Heisler, JD**



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**Curriculum Revision 2018
Version 2
Candace Heisler, JD**

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INTRODUCTION

ACADEMY FOR PROFESSIONAL EXCELLENCE

We are pleased to welcome you to the *APS- Working with the Criminal Justice System* Trainer's Manual, developed by Adult Protective Services Workforce Innovations (APSWI), a program of the Academy for Professional Excellence under a grant from the California Department of Social Services, Adult Programs Division.

The **Academy for Professional Excellence**, a project of [San Diego State University School of Social Work](#), was established in 1996 to provide exceptional workforce development and organizational support to the health and human services community by providing training, technical assistance, organizational development, research, and evaluation. Serving over 20,000 people annually, the Academy continues to grow with new programs and a diversity of training focused on serving the health and human services community in Southern California and beyond.

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

APSWI (Adult Protective Services Workforce Innovations) is a program of the Academy for Professional Excellence. APSWI is designed to provide competency-based, multidisciplinary training to Adult Protective Services Workers and their partners. APSWI's overarching goal is the professionalization of Adult Protective Services workers to ensure that abused and vulnerable older adults and adults with disabilities receive high quality, effective interventions and services. In partnership with state and national organizations, APSWI has developed a nationally recognized Core Competency Training Curriculum for Adult Protective Services workers. This curriculum is reviewed and approved by experts in the elder and dependent adult abuse fields.

APSWI's partners include:

- National Adult Protective Services Association (NAPSA) Education Committee
- California Department of Social Services (CDSS), Adult Programs Division
- County Welfare Directors Association of California (CWDA), Protective Services Operations Committee (PSOC)

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Agencies

California Department of Social Services, Adult Programs Division
County of Los Angeles Workforce Development, Aging and Community Services
Orange County Social Services Agency
Riverside County Department of Public Social Services
San Bernardino County Department of Aging and Adult Services
County of San Diego Aging & Independence Services

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National Adult Protective Services Association Education Committee
Protective Services Operations Committee of the County Welfare Directors Association of California

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PRE-TRAINING INSTRUCTIONS FOR THE TRAINER(S)

This course **must** be taught by someone with considerable experience working in and with the criminal justice system. It's recommended that an APS Trainer co-facilitate, some or all of this material.

Suggested attendance number: 10-25 participants

THIS TRAINING MATERIAL IS SPECIFIC TO CALIFORNIA.

IF TRAINING IS OUTSIDE OF CALIFORNIA, 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 (See Victims' Bill of Rights in the Appendix for a sample)
- 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.

Note: The terms "Adult Protective Services" and APS are used interchangeably. If that agency is known by a different name adjust accordingly.

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

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.

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.

Training strategies are in **bold** with expected time.

Actions which the trainer takes during the training are written in **bold**.

Trainer Notes are **entirely written in bold** and are provided as helpful hints, based on feedback from the pilot.

The Trainer's Manual and Participant's Manual differ in page numbers. It's suggested Trainer makes note of activities and handout page numbers from the Participant's Manual for ease.

Total content of material is 5.5 hours, with two 15-min breaks and one hour lunch built in for a 7 hour day.

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.

TRAINER GUIDELINES

<p>Teaching Strategies</p>	<p>The following instructional strategies are used:</p> <ul style="list-style-type: none"> • Lecture segments • Interactive exercises (e.g. Table Top Activities, experiential exercises, role plays) • Question/answer periods • Slides • Participant Manual (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 • Easel/Flipchart paper/markers • Trainer Manual: This manual includes the course overview; introductory and instructional activities; all Handouts; the Role Player copy for Activity VIII; and an appendix with reference materials. • Participant Manual: This manual includes a table of contents, course introduction, all training activities/handouts, and transfer of learning materials. • Printed copies of the following: (if outside of CA, see Pre-Training Instructions) <ul style="list-style-type: none"> ○ Victims’ Rights Handout (if in CA see pg. 105) ○ Selected Statues on Elder Abuse (if in CA see pg. 107) ○ Role Player copy (pg. 94) • Post-It Notes (1 pad per table) • Name tags/names tents • Water access/snacks/restroom access/lunch plans

EXECUTIVE SUMMARY

Course Title: *APS-Working with the Criminal Justice System*

In this interactive and thought provoking introductory training, participants learn how to identify crimes and the elements of crimes. They learn how to “build” a case that is more likely to be accepted for prosecution and how to support the victim if the case goes to court. They will also learn about their own role as a witness in court and develop an understanding of an appreciation for Law Enforcement and Prosecutors while remaining client focused. This is the Instructor Led Training for Core Curriculum Module 22.

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

Course Requirements:

It is suggested that participants have a basic understanding of their role as an Adult Protective Services professional prior to taking this course. If possible, this module should NOT be one of their first trainings.

Please note that training participants are expected to participate in a variety of in-class 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 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 professionals as well as Aging & Adult Service partners (e.g. In-Home Supportive Services, Long-Term Care Ombudsman). This course is also appropriate for experienced staff that could benefit from knowledge and/or skills review.

Training Goal:

Improve participant’s ability to successfully work with the criminal justice system.

Outcome Objectives for Participants:

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

- 1. Distinguish the role of Adult Protective Services from the role of Law Enforcement and Prosecution**
- 2. Identify factors that help make a case provable in the criminal justice system**
 - a. Able to name the 3 levels/burdens of proof**
 - b. Able to name the 3 categories of evidence used to build a criminal case**
 - c. Able to explain the difference between an evidence-based and a victim-based case and how that difference affects how a case is investigated and built**
- 3. Explain APS's role when a case is accepted for prosecution**
 - a. Can name at least 4 things that APS can do for abuse victims when the case has been accepted for prosecution**
- 4. Identify rights of victims and defendants**
- 5. Identify the elements of a crime when given the statute**
- 6. Explain the importance of APS documentation to enhance credibility when testifying in a criminal case**
- 7. Utilize a case scenario to develop 2 questions for cross examination**

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

AFTER the training, Supervisors can read the training executive summary and instructions for out-of-class transfer of learning (TOL) activity. Supervisor and training participant can then schedule a time to complete the activity together, preferably no more than 45 days after the in-person class.

At this point the trainees can share what specific skills they obtained from the training. It is intended to help the APS professional apply the elements structure of crimes to a real case the worker is handling.

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

Course Outline

Content	Materials	Time
<i>Activity 1: Terms and Their Meanings</i>	<i>Handout #1- Terms and Their Meanings</i>	<i>Waiting for class to begin</i>
WELCOME, INTRODUCTIONS, COURSE OVERVIEW		TOTAL: 15 minutes
LESSON 1: ROLE OF THE CRIMINAL JUSTICE SYSTEM AND INTERSECTION WITH APS		TOTAL: 35 minutes
<i>Key Players (Lecturette)</i>		10 minutes
<i>Activity II: LE lens vs. APS Lens: Case of Mrs. Gask (Table Group Work)</i>	<i>Handout #2- Mrs. Gask Scenario</i>	5 minutes
<i>Activity II Report Out</i>		10 minutes
<i>APS intersection with CJS (Class Discussion)</i>		10 minutes
LESSON 2: UNDERSTANDING THE CRIMINAL JUSTICE SYSTEM 'RULES OF THE ROAD'		TOTAL: 40 minutes
<i>Evidentiary Standards and Burden of Proof (Lecturette)</i>		10 minutes
<i>Reasonable Suspicion (Class Discussion)</i>		5 minutes
<i>Activity III: Mrs. Xander Part 1 (Shout Out)</i>		5 minutes
<i>Activity IV: Mrs. Xander Part 2 (Table Group Work)</i>	<i>Handout #3- Case File Mrs. Xander (Part 2-The Investigation)</i>	10 minutes

<i>Activity IV Report Out</i>		2 minutes
<i>Beyond a Reasonable Doubt (Shout Out)</i>		5 minutes
<i>Collaborative Relationships (Lecturette)</i>		3 minutes
BREAK		15 minutes
LESSON 3: EVIDENCE		TOTAL: 60 minutes
<i>Types of Evidence (Lecturette)</i>		10 minutes
<i>Victim-based Cases vs. Evidence-based Cases (Lecturette & Class discussion)</i>		10 minutes
<i>Corroborating Evidence (Class discussion)</i>		5 minutes
<i>Victim Testimony (Lecturette)</i>		10 minutes
<i>Activity V: Victim-based vs Evidence-based comparison (Table Group Work)</i>	<i>Handout #3- Case File Mrs. Xander (Part 2- The Investigation)</i>	10 minutes
<i>Activity V Report Out</i>		5 minutes
<i>APS Role in the CJS Process (Class discussion)</i>		5 minutes
<i>What have you learned thus far? (Shout Out)</i>		5 minutes
LUNCH		TOTAL 60 minutes
LESSON 4: CASE BUILDING		TOTAL: 125 minutes
<i>Types of Crimes (Lecturette)</i>		5 minutes

<i>Victims and Defendant’s Rights (Shout Out)</i>	<i>Victim’s Rights (not included in materials)</i>	5 minutes
BREAK		15 minutes
<i>What makes a crime a crime? (Lecturette)</i>	<i>Selected State Statutes (not included in materials)</i>	15 minutes
<i>Activity VI: Identifying State Statutes (Table Group Work)</i>	<i>Handout #4- Crimes and their Elements</i>	15 minutes
<i>PC 368: Elder/Vulnerable Adult Abuse (Class Discussion & Lecturette)</i>	<i>Handout #5-Penal Code Section 368- Elder/Vulnerable Adult Abuse</i>	20 minutes
<i>Activity VII: Fact Patterns (Table Group Work)</i>	<i>Handout #6- Case Scenarios</i>	35 minutes
<i>Activity VII Report Out</i>		20 minutes
<i>Activity VII Debrief (Class Discussion)</i>		5 minutes
<i>Case-building Framework (Lecturette)</i>	<i>Handout #7-Case Building Framework</i>	5 minutes
LESSON 5: YOUR DOCUMENTATION IN THE COURTROOM		TOTAL: 35 minutes
<i>Importance of documentation and Cross Examination</i>		10 minutes
<i>Activity VIII: Mock Courtroom- Cross Examination (Table & Large Group Work)</i>	<i>Handout #9a and 9b- Madison Gray’s Direct Testimony- TRAINER COPY</i>	15 minutes
<i>Classroom discussion: Debrief of Mock Courtroom</i>		10 minutes
CONCLUSION, ACTIVITY IX-TERMS AND THEIR MEANINGS, EVALUATIONS	<i>Handout #1- Terms and Their Meanings Evaluations</i>	TOTAL: 20 minutes
TOTAL (INCLUDING LUNCH AND BREAKS)		7 hours

Prior to Commencement of the Class

Activity I: Terms and their meanings

Trainer Notes:

On chart paper **ask** participants to work on **Activity I/Handout #1- Terms and Their Meaning** as they are settling in. Write down that we will review these throughout the training.

You will return to these terms at the end of the class and review the correct answers. Answer key is provided in Trainer’s Manual during the conclusion.

HANDOUT #1- TERMS AND THEIR MEANING

Terms and Their Meaning
Match the definition to the term

Term	Definition
Felony	a. Court order requiring a person to appear as a witness in an action or to produce records
Misdemeanor	b. More evidence in favor of guilt than against it
Right of Allocution	c. Anything with a tendency in reason to make something in dispute more probable
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. Ordinarily the first testimony of a witness; usually asking of questions by the side with which the witness is naturally aligned

INTRODUCTION: COURSE OVERVIEW

Time Allotted: 15 Minutes

Slide 3: Introductions



The slide is titled "Introductions" and features the "Academy of Professional Excellence" logo in the top right corner. It contains a bulleted list of topics for introductions: Instructor, Participants (with sub-points for Name, Agency/assignment, and Years of experience), and a photograph of three people smiling. At the bottom, there is a graphic of a yellow and black crime scene tape with the text "Crime Scene Do Not Cross Crime Scene".

- Instructor
- Participants
 - Name
 - Agency/assignment
 - Years of experience

Welcome participants and briefly **introduce** self (selves if more than one trainer) with particular emphasis on experience working with or within the criminal justice system.

Ask participants to introduce selves by name, agency or assignment, and time working with elder/dependent/vulnerable adults.

Slide 4: Housekeeping



The slide is titled "Welcome and Housekeeping" and features the "Academy of Professional Excellence" logo in the top right corner. It contains a bulleted list of housekeeping instructions: Location of restrooms, Set cell phones to vibrate, Please return promptly from breaks and help us keep to the schedule, and Materials (with sub-points for PowerPoint Slides and Participant Materials). There is a photograph of a black alarm clock on a notepad.

- Location of restrooms
- Set cell phones to vibrate
- Please return promptly from breaks and help us keep to the schedule
- Materials
 - PowerPoint Slides
 - Participant Materials


Review announcements:

- Turn off phones or place on silent.
- Location of restrooms and emergency exits
- Number and length of breaks in training day and lunch duration (on own)
- Other...

Slide 5: Experience Working with LE/CJS

Have You?

- Worked with law enforcement?
- Worked with prosecutors?

**Ask** participants by show of hands

- How many have worked with law enforcement?
- How many have worked with prosecutors?

Explain:


Based on the experience in the room, some of the material today may be a refresher to some or possibly more challenging for others. The content and flow is designed to build upon each lesson and put us all on a level playing field.

Slide 6: Course Goal

Course Goal

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Excellence

Improve your ability to successfully work with the criminal justice system



Review course goal and learning objectives:

Explain:

The purpose of this training day is to improve your ability to successfully work with the criminal justice system. The module is designed to help APS professionals develop an understanding and appreciation for the law enforcement and prosecution lens, but NOT to make them Detective or a Prosecutor.

APS will remain client focused but understanding this perspective will advance your collaborative working relationship with the Criminal Justice System.

Slide 7-8: Learning Objectives

Learning Objectives

- Distinguish the role of Adult Protective Services from role of Law Enforcement and Prosecution
- Identify factors that help make a case provable in the criminal justice system
- Explain APS's role when a case is accepted for prosecution
- Identify the rights of victims and defendants

Learning Objectives Continued

- Identify the elements of a crime when given the statute
- Explain the importance of APS documentation to enhance credibility when testifying in a criminal case
- Develop at least 2 questions for cross examination in response to a scenario.

Learning Objectives:

- 1. Distinguish the role of Adult Protective Services from the role of Law Enforcement and Prosecution**
- 2. Identify factors that help make a case provable in the criminal justice system.**
 - a. Able to name the 3 levels/burdens of proof
 - b. Able to name the 3 categories of evidence used to build a criminal case
 - c. Able to explain the difference between an evidence-based and a victim-based case and how that difference affects how a case is investigated and built
- 3. Explain APS's role when a case is accepted for prosecution**
 - a. Can name at least 4 things that APS can do for abuse victims when the case has been accepted for prosecution
- 4. Identify rights of victims and defendants**
- 5. Identify the elements of a crime when given the statute**
- 6. Explain the importance of APS documentation to enhance credibility when testifying in a criminal case**
- 7. Utilize a case scenario to develop 2 questions for cross examination**

LESSON 1: ROLE OF THE CRIMINAL JUSTICE SYSTEM AND INTERSECTION WITH APS

Time Allotted: 35 minutes

Slide 9: Criminal Justice System

Shout Out Activity:

Ask "What is the criminal justice system?"

Participants shout out a few ideas

Lecturette: Key Players (10 min)

Explain: Criminal Justice System includes:

- Law Enforcement: investigate alleged criminal conduct and make arrests, community care and support (patrol area, 50/51)
- Prosecution: initiate and prosecute cases on behalf of the local, state, tribal or federal government against charged persons. Prosecution decides who and what gets charged. May advise law enforcement and draft or review warrant applications.
- Corrections-state or county agencies (Probation/Parole) charged with supervising convicted persons (and those on deferred sentences) and compliance with all orders of the court.
- Victim Witness Assistance Program (VWAP) – typically located in the District Attorney's Office, VWAP assists victim and witnesses through the criminal justice system. Often the gateway to victim compensation benefits. These are usually advocates who don't have a confidential relationship with their clients. APS may be coordinating victim services through them or with them
 - **Encourage** participants to research VWAP resources in their area



Trainer Note: If "Courts" or "Defense" are mentioned, explain they are not included here because the 4 components included are generally seen as part of the Executive Branch of government. Courts are part of the judicial branch, a separate branch, and the defense bar operates independently of and within both branches.

Continue

In order to improve working collaboratively, **suggest** participants meet with each agency in the criminal justice system and provide cross trainings on area of expertise and develop a point of content within each entity.

Ask how many think the criminal justice system has its own jargon?

Acknowledge that like APS, the criminal justice system has its own language and that language, if not understood and used by APS, may lead to less effective interactions with law enforcement and prosecutors.

Different terminology is displayed throughout the lessons and in the participant manual.

Terminology Difference # 1
Client (APS) vs. Victim (LE)


Explain:

Victim is not the Prosecutor's client. The client is the community, the people. Using "victim" when speaking with law enforcement or CJS may be helpful.

Slide 10: Activity II

Trainer Note: This activity will set up the rest of the day and provide opportunity for participants to use critical thinking skills. The report out will give you a chance to explain/lecture as needed.

Activity II: Mrs. Gask



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

Activity II: LE lens vs. APS Lens: Case of Mrs. Gask (5 min)

Inform the participants that we're going to get a clear look at the difference of each system's focus.

Divide class in half. One half will review the case of Mrs. Gask (Handout #2) as APS; the other half will review the same case as law enforcement.

Ask each group to discuss what its role would be and what kind of tasks they'd have to accomplish in that scenario and identify a spokesperson to report back.

Trainer Note:
While groups are working, create a chart on the chart paper. Divide the paper in half and label one side APS and the other LE.

Capture their responses during the Report Out.

Handout #2- Mrs. Gask Scenario

Mrs. Gask. is 72 and uses a walker to ambulate following 2 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 give her grocery money to him.

She says she was holding her purse when her son grabbed her wrist and twisted it until she released the purse. He then grabbed the cash out of her wallet and ran out of her home. She says this has happened before as her son has a drug problem and is always stealing her cash or debit card.

The doctor reports the incident in accordance with state law.

What is your role?

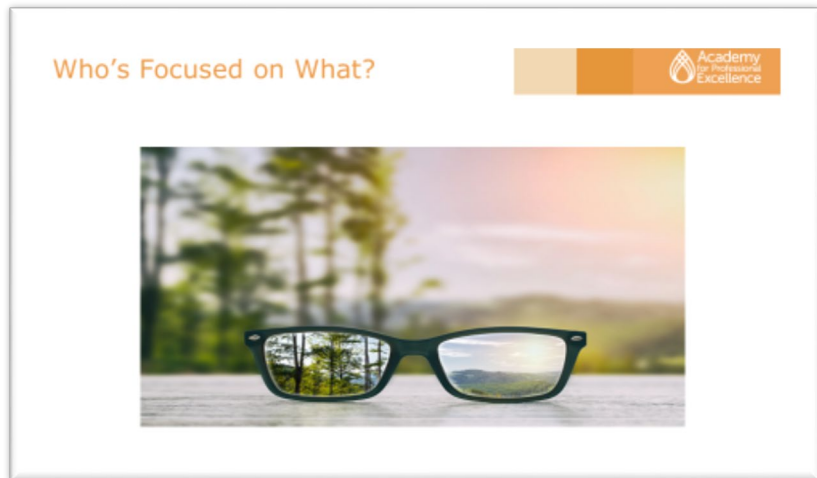
Activity II Report Out: (10 min)

Ask each group's spokesperson to report back what their group decided their role is.

Possible answers may include:

APS's Role: Assessment, emergency placement if needed, capacity, develop service plan if desired by client, give referrals, cross report to law enforcement

Law Enforcement's role: Take incident report, determine if crime occurred and identify the offender, locate offender, arrest, interview witnesses and secure evidence, present case to prosecution for their action, cross report to APS

Slide 11: Who's Focused on What?**Explain:**

The LE focus is to identify if a crime occurred and who is responsible. *The focus is on the offender and criminal activity.*

The APS focus is on the client's needs, risk and protective factors, and reducing risk if possible. *The focus is on the client.*

It is important that APS understand this critical difference and stay in its lane. If APS does not focus on the client, the client is left in danger.

Explain:

This training is specific to cases in which there is possible criminal conduct. There is a difference between civil and criminal cases.

Provide examples of each.

Civil cases:

Traffic collisions (one party sues another party for damages)

Someone slips on the floor of a store and sues the store owner.

Remedies focus on money and restitution.



Criminal Case examples:

Murder, sexual assault, robbery

Punishment focuses on loss of civil liberty (jail or prison or even loss of life) and may result in loss of civil rights.

Slide 12: Class Discussion

Case Discussion



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

Class Discussion: When will APS intersect with CJS? (10 minutes)

Ask “Where do you believe the roles of APS and the criminal justice system intersect?”

Wait until participants have answered to show next slide

Slide 13: Possible Answers**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

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 may not be able to 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 victim if needed
- Testify in court as a witness
- Arrange for services to meet victim's on-going needs for services, assistance, housing, etc.
- Provide information regarding the suspect including relationship, role, strength of ties to victim, underlying problems such as substance use disorder, behavioral health issues, employment history to assist prosecution and the court in making pretrial release decisions, issuance of protective orders, sentencing recommendations, and terms of probation

Trainer Note: Ensure you discuss any intersections you feel are important to highlight that were NOT mentioned.

There may be a discussion regarding confidentiality and possibly disagreements about APS's confidentiality vs. what's required to be turned over in a criminal case. As part of the pre-course preparation the Instructor should review relevant 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).

Slide 14: Information Sharing

Information Sharing



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

Ask: “Can APS share information with law enforcement?”

Elicit feedback

Ask: “Is everything in the APS file provided to law enforcement?”

Elicit feedback

Remind participants that if the name of a mandated reporter is shared it will likely be disclosed during the criminal case even if the name is confidential in APS’s records.

Trainer Note:


It’s helpful to provide statutory or regulatory authority for applicable laws on sharing information with law enforcement or other parts of the criminal justice system (e.g. California’s Welfare & Institutions Code Section 15630(g) on information sharing).

LESSON 2: “UNDERSTANDING THE CRIMINAL JUSTICE SYSTEM ‘RULES OF THE ROAD’

Time Allotted: 40 Minutes

Slide 15: ‘Rules of the Road’

Understanding the Criminal Justice System “Rules of the Road”



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-Adversarial system designed to “elicit the truth”

Lecturette: Evidentiary Standards and Burden of Proof (10 min)

Explain:

The Criminal Justice System is an adversarial system designed to “elicit the truth”.

Slide 16: Two Parties

Two parties; different roles

Prosecution is the representative of the state or government responsible for ethically prosecuting crimes

Defense owes total allegiance to the defendant * responsible for protecting that person's rights and attempting to get the best possible outcome

Terminology Difference #2:
Case referenced by client's name
vs.
case referenced by defendant's name or case number

Explain:

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.

When you think of famous court cases, you might have noticed it's usually the case of United States Government vs. Name of Defendant or State of California vs. Name of Defendant or The People vs. Name of Defendant.

In Civil cases it's the Name of Plaintiff vs. Name of Defendant.

Terminology Difference #2:

Case referenced by Client's name (APS)

Case referenced by Defendant's name or Case number (L.E. and Prosecution)

Helpful hint for APS: It will be important to know the incident or case number when speaking with law enforcement, or suspect/defendant's name when navigating the court system.

Slide 17: Burden of Proof/Standard of Evidence


Trainer Note:
You may want to tailor these definitions to local definitions.

Burden of Proof/Standard of Evidence

Terminology Difference #3:
Standard of Proof vs. 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 make an arrest



Clear and Convincing Evidence

- Highly probable that the fact is true so that the fact finder has a firm conviction or belief that the cause is true



Terminology Difference #4:
Preponderance of Evidence vs. Probable Cause

Explain:

The moving party, in a criminal case the Prosecution, must present a certain amount of evidence to prevail, called “the burden of proof” (or amount of compelling evidence required to prove a crime).

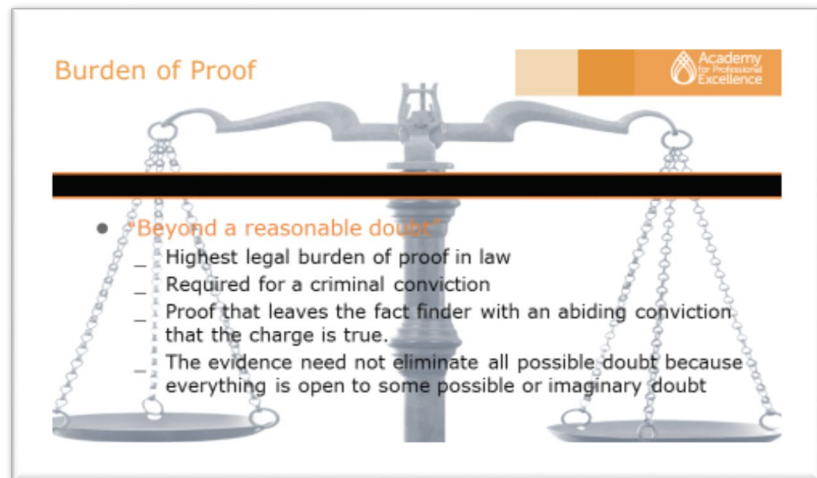
Terminology Difference #3:
Standard of Proof (APS)
Burden of Proof (CJS)

In law there are 3 burdens of proof.

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 50% plus anything (no matter how slight).
 - a. Applies to Civil Cases
 - b. Often the substantiation standard for an APS investigation
 - c. Law enforcement is authorized to make an arrest.

Terminology Difference #4:
Preponderance of Evidence (APS)
Probable Cause (L.E.)
Helpful Hint: when speaking to L.E., use probable cause

2. “Clear and convincing” evidence means highly probable that the fact is true so that 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.
 - a. Often applies in matters of fraud or when seeking equitable relief.
 - b. May be used in Probate Law as standard for Conservatorship/Guardianship.
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.

Slide 18: Burden of Proof

Ask: How many think it's nearly impossible to prove cases beyond a reasonable doubt?

Explain:

Proving a case beyond a reasonable doubt is difficult but certainly not impossible.

Beyond a reasonable doubt is explained to juries in California as follows: "A defendant in a criminal case is presumed to be innocent. This presumption requires that the People (Prosecution) prove a defendant guilty beyond a reasonable doubt (BRD)...Proof beyond a reasonable doubt is proof that leave you 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.

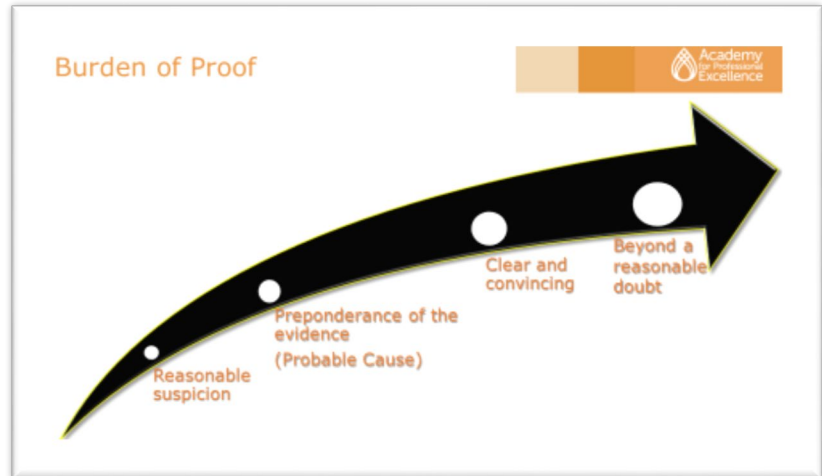
In deciding whether the People have proved their case BRD, you must impartially compare and consider all the evidence that was received throughout the trial. Unless the evidence proves the defendant is guilty BRD, s/he is entitled to an acquittal and you must find him/her not guilty." (From California Criminal Jury Instructions, CALCRIM, Instruction number 220)

Ask: Does anyone know what does "abiding conviction" means?

Possible Answer: Weeks later you have confidence that you made the right decision based on the evidence.

Explain that APS investigations that are litigated in criminal court will be evaluated by the standard of beyond a reasonable doubt.

Slide 19: Burden of Proof

**Class Discussion: Reasonable Suspicion (5 min)**

Ask: Have you heard of reasonable suspicion?”

Explain:

It is information that gives LE and APS a reason to inquire or check. It is not proof. In LE, reasonable suspicion that criminal conduct may be occurring or has happened could be a 911 call. The call is not proof that a crime actually occurred, but it gives a reason or basis for law enforcement to respond and investigate.

Ask: “What is the APS equivalent of a 911 call?”


Possible responses: an intake or report of suspected abuse.

Ask: “What does that report allow APS to do?”


Possible response: “to investigate.”

Explain: The next example will highlight the difference between reasonable suspicion, preponderance of the evidence, and beyond a reasonable doubt.

Slide 20: Activity III: What Proof do you Have?



Activity III: What Level of Proof Do You Have?



Part 1- The Report:
APS receives a report that Mrs. Xander is being neglected by her daughter. The Reporting Party (RP) states that Mrs. Xander 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 RP stated that Mrs. Xander came to her door and was dirty and crying. She said she was hungry, cold, and alone.

Activity III: Mrs. Xander Part 1- The Report (5 min)

Read (or ask volunteer to read) scenario on the screen out loud.
Scenario is below as well.

Scenario: Part 1- The Report:

APS receives a report that Mrs. Xander is being neglected by her daughter. The Reporting Party (RP) states that Mrs. Xander had been very friendly and social and was always very clean and well 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 RP stated that Mrs. Xander came to her door and was dirty and crying. She said she was hungry, cold, and alone.

Slide 21: What can you do with this?

Ask: “What level of proof do you have at this point?”

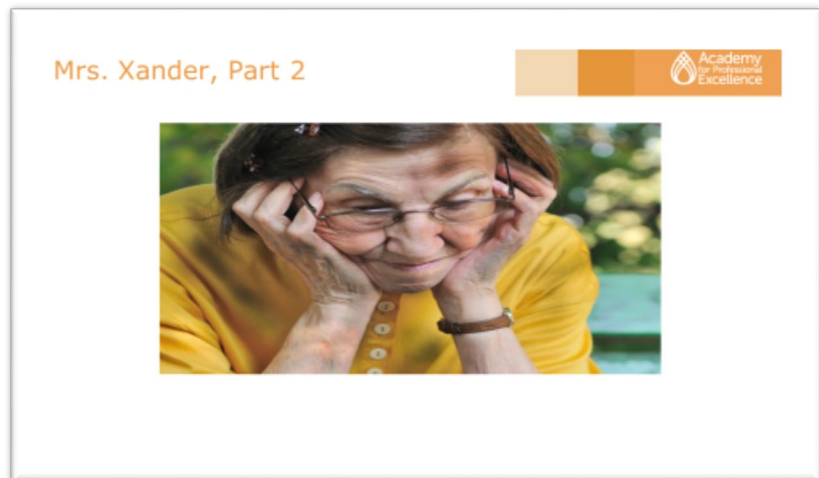
Possible answer: “Nothing; this is just an allegation.”

Explain this is an example of “reasonable suspicion”.

Ask “What if anything does this information permit you to do?”

Possible answer: “Investigate.”

Explain: Even minimal information is sufficient to begin an investigation.

Slide 22: Activity IV: Mrs. Xander Part 2**Activity IV: Mrs. Xander Part 2- The Investigation (10 min)**

In small groups, have participants read **Handout #3: Case File Mrs. Xander (Part 2- investigation)**

Ask participants to discuss the following questions and identify a spokesperson for the report out:

1. What level of proof do you have?
2. For what allegation?
3. As an APS Professional, what can you do with this level of proof?
4. Do you have reasonable suspicion that any other form of abuse may be occurring?

Trainer Note:

The next slide has the 4 discussion questions to display as groups work together.

Handout #3 Case File Mrs. Xander (Part 2- investigation)

During the APS interview with Mrs. Xander, the professional:

- *Saw she was alone, dirty, and the house was cold (it is freezing outside).*
- *Noticed a large pile of mail addressed to Mrs. Xander which the client cannot describe.*
- *Observed photos in the home which showed art work and a large piano in the living room which are not currently in the home.*
- *Realized Mrs. Xander was unable to answer most of the questions but keeps calling her by her daughter's name, Marianne.*
- *The APS professional administered the MoCA screening tool and the client scored 18.*

The APS professional located Marianne a few days later.

- *Marianne stated she is doing "the best she can". Says her mother is demanding, refuses to do as directed, and yells at her. She periodically has to leave or she "will lose it".*
- *Marianne provided no explanation for the unpaid bills in the mail. Admitted selling off things in the home because her mother doesn't use them or need them and they need the money.*

The professional interviewed the reporting party who repeated info provided in her APS report. Also stated:

- *She gave Mrs. Xander food, wrapped her in a blanket, walked her home and found that she was alone. The house was messy.*
- *She and Mrs. Xander have been friends for 25 years and played bridge until Mrs. Xander could not remember game rules. She also occasionally wandered away.*
- *Lately Marianne has had many visitors coming and going at all hours.*
- *Marianne often leaves for hours or days.*

The professional checked with Mrs. Xander's bank and learned:

- *Mrs. Xander is a long-time client of the bank and has a checking and savings account.*


- *Mrs. Xander had \$32,000 in the savings account a year ago but now has \$8,000.*
- *The checking account which had never been overdrawn until 4 months ago, has been overdrawn 5 times since then. The current balance is \$2.32.*
- *Mrs. Xander's monthly social security and pension checks are direct-deposited into the savings account. They total \$2800 per month.*

The professional checked with Mrs. Xander's doctor who has not seen Mrs. Xander in a year.


- *Mrs. Xander should be taking medication for high blood pressure but has no current prescriptions. The doctor's office has called her home repeatedly to have her come in so they can update her prescriptions. They have left messages but have not been able to reach Mrs. Xander.*

Slide 23: Discussion

Discussion



- What level of proof do you have?
- For what allegation?
- As an APS professional, what can you do with this level of proof?
- Do you have reasonable suspicion that any other form of abuse may be occurring?



Report Out (2 min)

Ask: What level of proof is this?

Answer: (preponderance of evidence). **Address** any groups that had different answer.

Some may believe that there is clear and convincing evidence. In such circumstances, **reframe** the question to “Do you have at least preponderance of the evidence level proof?” Once there is an agreement, **continue** the discussion.

Ask: For what type of allegation(s)?

Answer: caregiver neglect

Explain there may also be a reasonable suspicion that financial abuse is occurring or has occurred.

Ask: As an APS professional, what can you do with this level of proof?


Possible answers:

- Further investigation of financial abuse
- arrange for capacity evaluation
- arrange for medical evaluation
- cross report to LE,
- arrange for different caregiver
- offer services


Trainer Note:
Cross reporting is dependent on state law and standard for reporting. Ensure to have this information handy based on your State.

Explain that to prove this case beyond a reasonable doubt in a criminal case it will require more information, collection of evidence, and interviewing of witnesses.

Slide 24: Discussion

Class Discussion 

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

**Shout Out: Beyond a Reasonable Doubt (5 min)**


Ask the participants to put on their Detective and Prosecutor hat.

Ask: “What more is needed to prove case beyond a reasonable doubt?”

Write down answers on chart paper.


Trainer Note: wait for answers to be shared before progressing to next slide. Make this a brief shout out as the next activity addressing evidence based prosecution will elicit the same answers.

Slide 25: Beyond a Reasonable Doubt



Beyond Reasonable Doubt

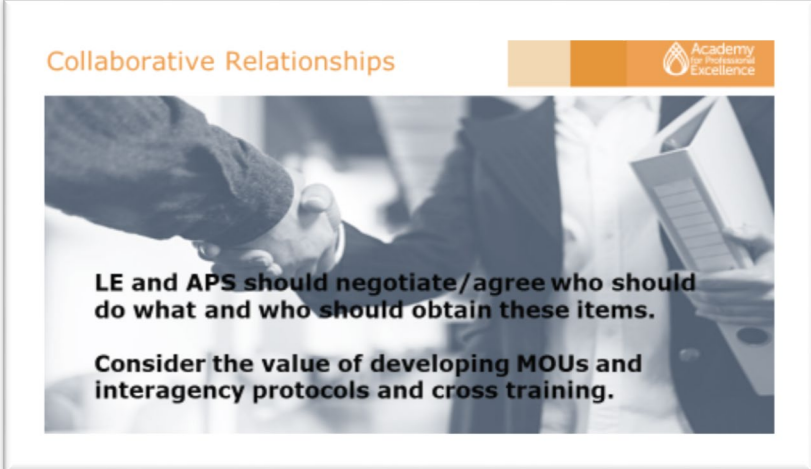
- Statements by Marianne
- Confirm Marianne to provide care /pay bills
- Bank records
- Proof of unpaid bills
- Ongoing drug investigation
- Medical providers re: Mrs. Xander's condition
- Doctors' statements to Marianne
- Statement by Mrs. Xander



Some answers might include:

- Interview Marianne regarding bank and medical information
- 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. Xander's account and their use by Marianne
- Utility companies and other creditors to establish bills are not being paid
- Law enforcement about interactions with Marianne and any ongoing drug investigations at the home
- Mrs. Xander's doctors regarding her capacities and instructions they have given Marianne about Mrs. Xander's medical condition
- Medical providers about Mrs. Xander's condition when APS responded
- Pharmacy records
- Statement by Mrs. Xander if she is at some point able to answer questions and excited utterances/spontaneous statements

Trainer Note:
Highlight any other helpful evidence that may not have been shared.

Slide 26: Collaborative Relationships

Collaborative Relationships

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LE and APS should negotiate/agree who should do what and who should obtain these items.

Consider the value of developing MOUs and interagency protocols and cross training.

Lecturette: Collaborative Relationships (3 min)

Remind participants:

These activities were to help clearly define the differences between reasonable suspicion, preponderance of evidence and beyond reasonable doubt.

Getting the evidence needed to prove a case beyond a reasonable doubt is not the job of APS.

1. In a collaborative relationship LE and APS should negotiate/agree who should do what and who should obtain these items.
2. Consider the value of developing MOUs and interagency protocols and cross training.

Emphasize that time spent building and fostering relationships with those in the Criminal Justice system will result in improved understanding of one another's roles and needs and will enhance your ability to assist your client in successfully navigating the system. It is also likely to improve the response of law enforcement and prosecutors to your cases.

Ask participants to think about ways to strengthen relationships including cross training, working with supervisors to host MDT meetings, joint or quarterly reviews of elder/dependent adult cases, and even stationing an APS professional within a local law enforcement unit or stationing a law enforcement official within an APS Office.

LESSON 3: EVIDENCE**Time Allotted: 60 minutes****Slide 27: Types of Evidence****Lecturette: Types of Evidence (10 min)****Explain:**

Evidence used to build a solid case:

- Physical evidence
- Witnesses
- Admissions & Confessions

A solid case has at least 2 of these categories.

Trainer Note: You may want to give participants examples of admission and confession: **Confession—last Thursday at noon I walked into City Bank, pulled out a pistol and aimed it at the teller and demanded money; Admission—I was at the City Bank last Thursday at noon.**

Ask: “Of these 3, which do you believe is the most reliable?”

Correct Answer: physical evidence because if correctly collected the item does not change and is always available.

Explain: witness and confessions, while important, can be problematic because:

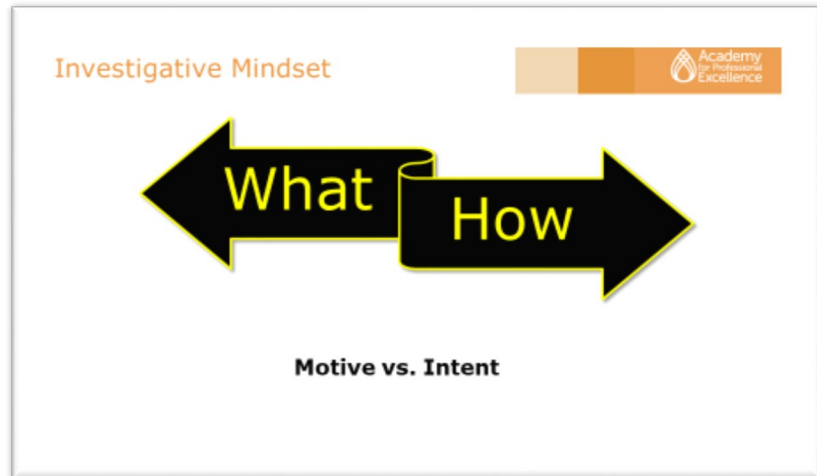
Witnesses:

- May not be available
- May forget or become unavailable to testify (e.g., serious illness, advancing dementia)
- May recant
- May disappear
- May have allegiances or agendas
- May not be credible (substance abuse, reputation of a liar)

Admissions (admit something that helps prove guilt) & Confessions (admit all elements of the crime):

- 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 28: How and What



Explain: In order to have a more successful chance that 1.) Prosecution will file the case and 2.) a conviction will result, APS workers should focus on determining what happened, how something occurred and identifying who committed the act; avoid focusing on determining why during fact gathering phase of the investigation

If you focus on “why” too early, it may:

- Discount evidence that does not match own theory
- Fail to ask important questions
- Lose objectivity
- May not know

Remind the participants that proof of why the perpetrator did something (e.g., greed, entitlement, power and control, jealousy) (motive) is not an element of the crime and does not have to be proven.

Motive is different from “intent”. Intent refers to a mental state the perpetrator must have had when he or she committed the crime. Examples are intent to kill or permanently deprive the owner of his or her property. Intent may be an element of a crime and must be proven by the prosecutor.

Acknowledge that we are always naturally curious about why someone did something.

Explain that contrary to popular belief, motive is not as valuable to a Detective investigating the crime or a Prosecutor while analyzing and building their case. However, information about why(motive) may have value later for APS as you develop a service plan i.e./ resources and services to an alleged perpetrator. It may also be something a prosecutor considers when offering a disposition to a defendant or a judge thinks about when deciding an appropriate sentence but that is long after the facts have been established and proven.

Ask: Do you remember the case with Susan Smith?

Explain: She drove her car into a lake drowning her 2 young children. She was charged and convicted of murder. Motive was never proven but she was nevertheless convicted.

Slide 29: Victim-based vs. Evidence-based**Class Discussion: Victim-Based vs. Evidence-Based Cases (10 min)**

Explain: We've covered evidentiary standards and burdens of proof, but now are going to focus on the role of the victim in a criminal case and two ways to build cases. These are called "victim-based" and "evidence-based" cases. In a victim-based case the victim must testify fully and little or no other evidence is offered to support that testimony. In contrast, evidence-based cases gather as much evidence from as many sources as possible which is used to prove a case where there is no victim testimony or to support and strengthen the victim's testimony.

Ask: How many of you have been told in order for the case to go forward, your client will have to testify?

Explain: This is not always true. Prosecutors have to build a different kind of case if the victim can't or won't testify. When APS conducts their investigation, it's important to remember your client may or may not testify and the case may still be charged. If you believe your client lacks decision making capacity or is likely to be found incompetent to testify, or is physically unable to testify due to a physical or cognitive disability, will not survive to testify, or for other reason is unwilling to testify it may shape your investigative steps.

Ask: Can anyone think of a kind of case that can be successfully built and prosecuted without a victim testifying?
Possible answers: a murder case or a child abuse case involving an infant.

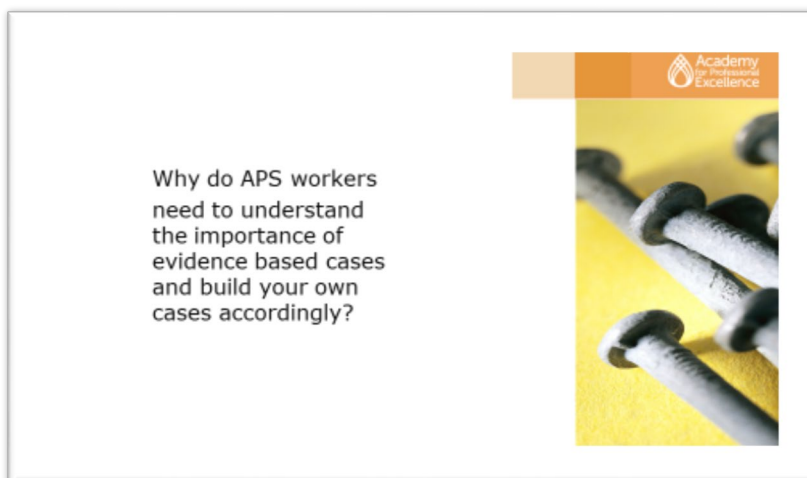
Continue

Explain: The Criminal Justice System's 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 physical 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 is preferable in an elder/dependent adult abuse case?"

Answer: "evidence-based."

Explain: In reality all cases (not just elder/adult dependent abuse) are stronger when they are evidence-based as there is more information and more corroborating evidence than with victim-based cases.

Slide 30: Why is this Important?

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



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


Before moving to next slide, **allow** participants to answer.

Slide 31: Importance

Importance

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

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




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Possible answers may include:

- CJS often cannot proceed with a case built exclusively on the victim's information
- Insufficient to prove 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
- Victims, especially older and vulnerable adults, due to mental and physical health issues may not survive long enough to testify
- There may be cognitive issues which make them incompetent to testify
- Unique dynamics between and victim and perpetrator may mean victim will recant, minimize, be afraid, or be manipulated


Explain: In reality proof beyond a reasonable doubt in all cases (not just elder abuse) can rarely be proven through a single witness.

Slide 32: Corroborating Evidence



Corroborating Evidence

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



Class Discussion: Corroborating Evidence (5 min)

Explain: In an evidence-based case, Prosecutors look for corroborating evidence. We find ways to give fact or back-up to what the victim's statement is, helping to prove beyond a reasonable doubt.

In every case, investigators should always think about what other evidence and witnesses are available.

Examples could include:


- Professional's observations
- A/P statements against interest or admissions
- Spontaneous Statements
- Business Records
- Medical Records
- Statements for Medical Care
- Diagnosis and Treatment
- Discharge Planning
- Chance overheard remarks
- Statements to non-governmental agents
- Who have you talked to about this?
- Who else knows?
 - ▶ Friends and Family

Slide 33: Victim Testimony

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Victim Testimony

- Defendant has constitutional right to face and confront all witnesses called against them
 - Crawford v. Washington (2004)
- If victim is competent to testify likely they will be called as a witness
- Can taking of testimony be expedited?
 - Conditional examination, deposition



Lecturette: Victim Testimony (10 min)

Explain: Often times victims, their family, and APS workers might ask, “why do they have to testify? They feel they’ve already been through enough, it’s going to be re-victimizing, and they gave a statement to a few people (e.g., APS Worker, Police Officer, Detective, and Prosecutor).

When thinking about building a criminal case we must be aware of the law which holds that a defendant has constitutional right to face and confront all witnesses called against him/her.


Trainer Note: If you have extra time, you may want to mention the line of cases beginning in 2004 with Crawford v. Washington. (this will prompt many questions from participants. You can find background information at Aequitas, The Prosecutor Resource (2017) Elder Abuse, available at <http://www.aequitasresource.org/Prosecutors-Resource-on-Elder-Abuse.pdf>).

In practical terms this right means that if a victim is competent to testify and available, it is likely s/he will be called as a witness. Since elder abuse victims may be demented, have serious medical conditions, or may become mentally incompetent to testify, cases need to be investigated and prosecuted promptly.

Slide 34: Conditional Examination

Trainer Note: Only cover if your state allows this

Conditional Examination



- Early memorialization of victim testimony with full cross examination
- Can be taken at victim's location if victim cannot travel
- Can be videotaped
- Can be used if victim unavailable to testify at trial
- Penal Code §§1335-1345


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There are procedures in many states to allow for the testimony of elderly, dependent, or vulnerable victims to take the stand early in the proceedings. Examples include conditional examinations and depositions to preserve testimony. (Conditional Examination--CA Penal Code Sections 1335-1345)

Ask: What does this mean for you as an APS professional?

Explain: Testimony with full cross examination can be taken at victim's bedside, home, or nursing home. There are ways to frontload evidence. Each Prosecutor, case, and State are different, so it may not always be the standard. However, an APS worker can professionally and delicately ask if there are any processes in place that can expedite your client's role in the proceedings.

Slide 35: Activity V

Activity V 

Mrs. Xander and Marianne 

- How can this case be proven if the victim does not testify?
- If the victim were able to testify, how could that testimony be corroborated?
- Select a spokesperson to report back

Activity V: Victim-Based vs. Evidence Based Comparison: Mrs. Xander (10 min)

Ask participants to refer back to **Handout #3-Case File Mrs. Xander (Part 2-Investigation)**.

Explain they will work in table groups for 10 minutes and need a spokesperson to report out.

While working in groups, discuss:

- How can this case be proven if the victim does not testify?
- If the victim were able to testify, what are other types of evidence that could corroborate that testimony?

Report Out: (5 min)

Ask each spokesperson to give a quick report out.

Explain: We can't be sure if this could be proven without Mrs. Xander's testimony.

Possible answers for Evidence to Corroborate may include:

- Neighbor as to observations
- Other neighbors and friends to changes in Mrs. Xander
- Medical assessment
- Medical information given to Marianne to show understanding of Mrs. Xander'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
- Law enforcement prior calls or investigations regarding drugs
- APS worker's file and observations
- Family or friends to testify about missing items such as art work and piano

Trainer Note: Include any examples you feel are important that were not shared.

Ask: Do you think Ms. Xander could testify in this case?

Explain: Ms. Xander may not be able testify due to her current incapacity. However, if her confusion is the result of treatable conditions such as an infection, dehydration, 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 may be necessary for a court to determine if competent to testify. Determining witness competency is a legal determination which relies heavily on medical and capacity assessments.

Trainer Note: remind participants that a mini mental screening is inadequate to assess capacity.

Slide 36: APS Role in CJS

APS Role in the CJS Process 

- Once a case is charged is your involvement over?
- What is your role?
- How can you advocate with the prosecution for your client?

**Class Discussion: APS Role in the CJS Process (5 min)**

Explain: Let's assume that your investigation in collaboration with law enforcement's investigation, is charged by the prosecutor.

Ask: Is your role over in that case?

Answer: no; role continues.


Ask: Once the case is being prosecuted, what is your role as APS in the case?

Elicit feedback before proceeding to this slide

Slide 37: Role of APS

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



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Possible Answers:

- 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 own investigation
- Advocate for their client's needs
- Explain to client that defendant may never take the stand and they may not get that "closure".

Trainer Note: Highlight any that were missed that you feel are important to mention.

Slide 38: Lessons Learned:

Lessons Learned

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



The image shows a close-up of a person's hands writing in a notebook. The person is wearing a blue long-sleeved shirt and a watch on their left wrist. They are holding a yellow pencil and writing on a white page. The notebook is open, and the text is partially visible.

Shout Out: (5 min)

Explain: We've covered a lot of ground this morning. Before we break, let's review a bit.

Ask participants to note in their participant manuals page (fill in blank) 2 things they have learned so far that they can apply to their jobs.

Ask each participant (or at least each table) to report back one thing they wrote down.

LUNCH

Time Allotted: 60 minutes

Slide 39: Lunch Break

LUNCH BREAK



Trainer Note:

Take this time to identify a Role Player (suggested a Supervisor or experienced APS professional) for Activity IX: Madison Gray for the afternoon session. Allow Role Player to review Handout #9b (in Trainer's Manual) so they are prepared.

After lunch, **welcome** class back from lunch. **Ask** if any they have questions regarding the morning material.

Ask participants to refer back to **Handout #1 Terms and Their Meaning** and check off any that have been covered. (3 min)

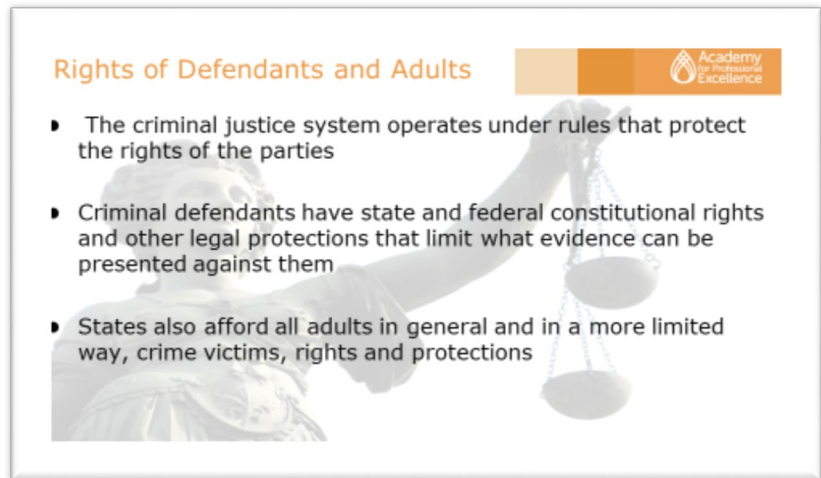
Slide 41: Categories of Crimes

Explain: There are 3 kinds or categories of crimes

Infraction- minor offense, punishable only by a fine, such as speeding or driving through a stop sign

Misdemeanor-crime with maximum punishment of a fine, a term in county jail, or both

Felony-most serious category of crime, can be punishable by state prison or in some cases, death.

Slide 42: Rights of Defendants and Adults

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

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Explain: 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. Federal and States also afford victims of crime rights and protections, but they are more limited. If there are two rights in conflict, the defendant's right prevails.

Slide 43: Rights of Victims

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.



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Shout Out Activity: Victims and Defendants Rights (5 min)

Ask: What are the rights that all elders/vulnerable adults/ adults who are crime victims have in this jurisdiction?

Possible answers may include: right to notice, to be heard, to appear at bail and sentencing hearings, to speak at sentencing (allocution), to restitution, and to be treated with respect.

Highlight any that you feel are necessary that were not covered.


Trainer Note: After the discussion, give class EITHER handout you created prior to class regarding crime victims' rights in your state OR CA Victims' Bill of Rights "Marsy's Rights."

Slide 44: Rights of Accused

Rights of the Accused

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- What are the legal rights of those accused of a crime?



Ask: What are the rights all persons accused of a crime have in this state?

Allow participants to answer before progressing to next slide.

Slide 45: Rights of Accused Include

Rights of the Accused Include:

- 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



Possible answers include: right to counsel, jury (or other) trial, against compulsory self-incrimination, call witnesses, confront accusers (confrontation), be free of unlawful search and seizure, bail, and the presumption of innocence.

Trainer Note: If time allows, discuss a defendant's right to confront all witness.

Slide 46: Why does APS need to know?

Why Do APS Professionals Need This Information?

- 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



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Ask: Why do APS workers need to know this information?

Possible answers:

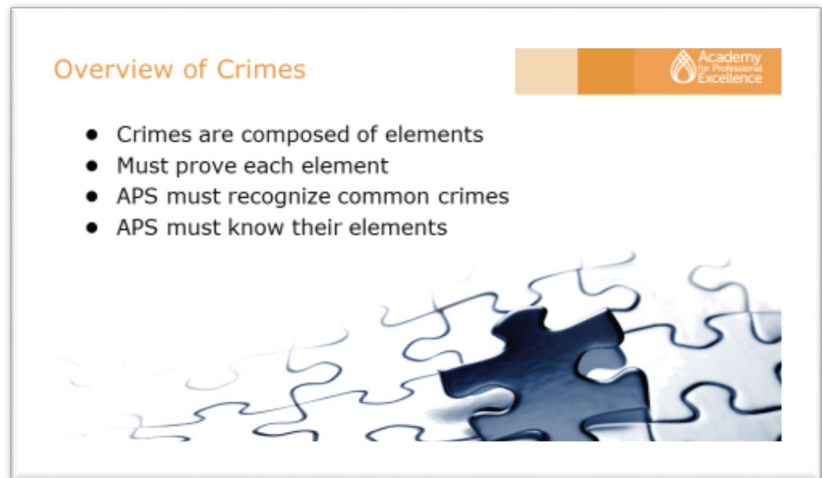
- Educate clients
- Understand own role and reasons why APS might be called to testify
- Prepare clients who are possible witnesses or whose cases may be reviewed by the criminal justice system

Slide 47: What makes a crime a crime?**Lecturette: What makes a crime a crime (15 min)**

Explain: This next section can be a bit complicated and taking notes is encouraged for use in a future activity.

Trainer Note:
Remind participants that we are not teaching the law here, but rather teaching a skill that will be useful in their everyday fieldwork and interactions with law enforcement.

Slide 48: Overview of Crimes




Overview of Crimes

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

- 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.
- Being familiar with common crimes will help you recognize possible criminal conduct to refer to law enforcement. However, knowing the elements of those crimes will help you to understand how a case will be evaluated by the criminal justice system and you can help explain this to your client. (**Refer participants to EITHER **handout you created on your state's Selected Statutes** OR **CA Selected Statutes on Elder Abuse** for use when they go back in the field).**)

Slide 49: Finding the Elements

Trainer Note: CA statute and resources are listed. Change for your State's correct information.


Finding the Elements  

- Most criminal laws are in the **California Penal Code** available at <https://leginfo.legislature.ca.gov/>
- To determine the elements of a crime, read the crime's definition.
- The elements of a crime are also in the jury instruction books (**CALCRIM**) available online at <http://www.courts.ca.gov/partners/312.htm>

- In this state most criminal laws are found in the CA Penal Code (**fill in name of code in states other than CA**). To access this state's criminal code go to (<http://leginfo.legislature.ca.gov/>) (**website or resource for states other than CA**).
- To determine the elements of a crime, read the crime's definition. This will tell you what must be proven.
- Another place to identify the elements of a crime is in your state's jury instruction books.

Slide 50: Example:

Example



- CA Penal Code Section 273.5
- 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.

**Trainer Note: review slide to read and identify elements (next slide).
Give the participants a hint that there are two elements.
Ensure the participants understand before moving on to the next activity.**

Slide 51: Elements

Elements



- 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.

Slide 52: Activity VI: Identifying State Statutes

Trainer Note: Copies of CA Statutes are provided. This activity is teaching a skill, not the law, so feel free to use, or modify with your state's statutes.

Activity VI: Identifying State Statutes

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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

Activity VI: Identifying State Statutes (15 min)

Assign each table one crime (**Handout #4- Crimes and Their Elements**) and **provide** them with chart paper. These can also be found in the participant manual.

Ask participants to review the crime they were assigned and list on chart paper the name of the crime, the statutory reference (e.g., Penal Code Section 459); and the elements.

Trainer Note: There is no report out, so as you circulate the room, check to see if they are successfully completing the activity.

Ask each table to post their chart paper around the room when completed.

After each table is finished, **remind** them they now have a skill they can continue to practice and use when evaluating the strengths of their case.

Handout #4- Crimes and Their Elements (assign one per group)

Penal Code Section 243(e)(1) (Domestic Battery)

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).

Penal Code Section 243.4 (Sexual Battery)

(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.

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.

Penal Code Section 211 (Robbery)

Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear.

Fear may be either:

1. The fear of an unlawful injury to the person or property of the person robbed, or of any relative of his or member of his family; or,
2. The fear of an immediate and unlawful injury to the person or property of anyone in the company of the person robbed at the time of the robbery.

Penal Code Section 487 (Larceny (theft))

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...is guilty of theft.

It is Grand Theft when the money, labor, or real or personal property taken is of a value exceeding nine hundred fifty dollars (\$950), except...

- Certain crops or livestock
- When the property is taken from the person of another.
- When the property taken is an automobile or a firearm.

The crime is petit theft if the value is less than nine hundred and fifty dollars and not livestock or crops, an automobile, or a firearm.

Slide 53: PC 368

Trainer Note: Replace with your state's statute if there is one.

Penal Code §368



HANDOUT #5

- Elders— person 65 years or older
- Dependent adults—
 - 18 to 64
 - 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.
 - Persons admitted as an inpatient to a 24-hour health facility


Class discussion: PC 368: Elder/Vulnerable Adult Abuse (20 min)

Trainer Note: This has potential to become lengthy, depending on the experience in the room and how specific you get. Participants will have the chance to critical thinking and applying the breakdown of this discussion in the next activity.

Ask participants to locate Handout #5 Penal Code Section 368- Elder/Vulnerable Adult Abuse

Explain this is CA's Statute on Elder/Vulnerable Adult Abuse

Slide 54: Crimes in Penal Code 368

Crimes in Penal Code §368 

"Caretaker"++	"Any Person"***
Neglect	Infliction of physical pain
Caretaker financial abuse	Infliction of mental suffering
	Financial abuse
	False imprisonment
++Must prove suspect was a caretaker—had the care, custody, or control of, or who stands in a position of trust with, an elder or a dependent adult.	**Must prove perpetrator knew or reasonably should have known the victim was an elder or a dependent adult

Discuss the Statute and be sure to include:

- Relevant definitions (who is protected under statute)
- Whether a perpetrator must be a caretaker and how caretaker is defined
- If crime is a felony or misdemeanor
- Legal elements of each included crime

Handout #5- Penal Code Section 368-Elder/Vulnerable Adult Abuse

Penal Code Section 368—Included Conduct

Any person ...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.

Willful Infliction of Unjustified Physical Pain or Mental Suffering (368(b))

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, 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.

“Mental Suffering” means fear, agitation, confusion, other serious emotional distress brought about by intimidating behavior, threats, harassment, or deceptive acts, or false or misleading statements made with malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress.... (WIC 15610.53)

Financial Abuse (368(d))

Any person who is not a caretaker who violates any provision of law proscribing theft, embezzlement, forgery, fraud, or 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 ...

Felony if taking is more than \$950.00; misdemeanor if taking is less than \$950.00.

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

Financial Exploitation by a Caretaker (368(e))

Any caretaker of an elder or a dependent adult who violates any provision of law proscribing theft, embezzlement, forgery, fraud, or identity theft, with respect to the property or personal identifying information of that elder or dependent adult, is punishable ...

Felony if taking is more than \$950.00; misdemeanor if taking is less than \$950.00.

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

"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.


False Imprisonment of an Elder (368(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 ...

“False imprisonment is the unlawful violation of the personal liberty of another.”

(Penal Code 236)

Slide 55: Fact Patterns

Activity VII: Fact Patterns 

- Working with your assigned scenario
 - Identify the applicable crimes in Penal Code 368
 - Pick 1 crime in Penal Code 368
 - List the elements
 - List the evidence and witnesses available 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

Activity VII: Fact Patterns (35 min)

Trainer Note: The goal for this activity is to give participants the opportunity to apply case facts and evidence to a fact pattern. Five fact patterns are provided. Depending on the size of the group, you might not use all five, or if group is larger, you may assign case studies to more than one group. The participants will use CA Penal Code 368, however, if your state has an Elder/Vulnerable Adult Abuse Statute, please replace it. If your statute doesn't cover neglect or false imprisonment, suggest you delete scenario accordingly (e.g. Case Study 5).

Assign each group one scenario from **Handout #6- Case Scenarios** and two pages of chart paper.

Explain: Participants will have 25-30 min to discuss and complete the following using **Handout #5** and their assigned scenario:

1) identify only one crime in PC 368 (**Handout #5**); 2) identify the elements and list the evidence to prove each element; 3) list any witness and 4) determine if there is missing information or if there are questions that need to be clarified to prove an element.

Provide helpful hints (e.g. "you'll have to prove a victim is an elder; if stranger is perpetrator, that they knew or reasonably should have known victim is elder or dependent adult").

Remind them to identify a spokesperson for the report out.

Trainer Note: Circulate frequently to help teams with questions and to keep participants on track.

Continued

About 20 minutes into this activity, **visit** each table and **ask** them to present the case overview to you, at their table, in no more than one minute. **Explain** the case overview is intended to highlight key information that will convince the prosecutor that the case is prosecution-worthy. **Encourage** them to think about special aspects of the facts; such as pattern of abuse, significant loss, predatory or other egregious behavior, dangerousness of the perpetrator, or abusing the victim's trust. Teams can present the elements and supporting evidence after the one-minute overview.

Handout #6- Case Scenarios (with answer key (*in italics*) for Trainer's Manual)

Case 1:

Mrs. Phillips is 72, a retired teacher, has difficulty moving around. She has diabetes and hypertension but controls 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 pension 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 for a spiral fracture. 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 strangled 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 3 days. She says that she cannot find her medications and believes that her son has hidden them.

Crime: 368 (b)

Element 1: *Victim is an elder (65 or older)*

Evidence to support element: *It is his mother; photos showing her as an older person*

Witnesses: *Officer, APS professional, victim, neighbor*

Missing Information/Clarifying information needed: *Birth certificate, marriage certificate, etc. a governmental record showing age*

Element 2: *Intentionally inflicted unjustified physical pain*

Evidence to support element: *photos of injuries, medical reports, spontaneous statement to neighbor, medical personnel statements*

Witness: *victim, neighbor, medical staff*

Missing Information/Clarifying information needed: *Is victim competent to testify? Why did she lie to medical staff? What do medical staff believe is cause of injury? Did neighbor see bruising on neck, eyes red? Is she whispering because she doesn't want others to hear?*

Case 2:

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 9 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 3 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 and found that he 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 3. He says Melinda does not live with him but visits him “pretty much every day.”

With his permission, APS located and reviewed Mr. Mathews’ checkbook. 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’ financial decision making capacity 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

Continue

similar incident committed against another older widower, Bill Nelson. There is an ongoing investigation in that case.

Crime: *PC 368(d)—Financial Abuse (Not a Caretaker)*

Element 1: *Victim is an elder and defendant knew or reasonably knew that*

Evidence to support element: *Victim's appearance; Bank teller's knowledge; APS investigation; birth certificate; children statements*

Witnesses: *Bank staff; APS worker; children of victim*

Missing Information/Clarifying information needed: *Birth certificate; photograph of Mr. Mathews. Is Mr. Mathew's legally competent to testify? If yes he can testify as to each element.*

Element 2: *Defendant committed forgery and theft*

Evidence to support element: *Bank staff (victim statements about Melinda); bank records; teller identification of Melinda); bank photos and video; bank accounts showing movement of funds out of Mr. Mathews' account;*

Witness: *Bank staff; APS observations; mental capacity assessment (Mr. Mathews could not give legal consent and that his incapacity was obvious to those who spent time with him; his confusion; impaired memory)*

Missing Information/Clarifying information needed: *investigation of defendant in case of Bill Nelson (admissible to show intent, common scheme and design)*

Element 3: *Loss exceeds \$950.00*

Evidence to support element: *Bank records; change in spending patterns*

Witness: *Bank staff*

Missing Information/Clarifying information needed: *Need bank records for up to 1 year prior to Melinda's involvement with Mr. Mathews to show changing pattern in spending*

Case 3:

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 now recovering from surgery in a skilled nursing facility (SNF) after being transferred there from the hospital. During a visit at the SNF a staff member saw Harry yell at his wife to get up and stop playing sick. Harry 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. Harry 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 nonconsensual 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 that 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.

Continue

Crime: *PC 368(b)(1) Infliction of unjustified pain (physical abuse—which includes sexual abuse) Note: group in this scenario could alternatively decide to prove willful infliction of mental suffering under the same code section.*

Element 1: *Victim is an elder and defendant knew or should have known this.*

Evidence to support element: *Husband and wife relationship (marriage certificate; statements on admission form and medical record), Marie's statements.*

Witnesses: *Marie, hospital or SNF custodian of record*

Missing Information/Clarifying information needed: *Obtain medical/SNF record with next of kin information; marriage certificate. Has Harry admitted relationship to anyone?*

Element 2: *Circumstances likely to result in great bodily injury or death*

Evidence to support element: *Assault witnessed by staff member on first incident; care nurse (second incident), Marie's statement, medical staff that treated Marie, ordered/administered pain medications; forensic nurse (SANE/SART after second incident), medical records, documentation of Marie's spontaneous statement after second incident; medical staff about fall down the stairs; witness to threats to harm Marie and cat; injury photos*

Witness: *Care nurse; staff member (first incident); Marie; forensic nurse; medical provider (pain meds, observations), detective*

Missing Information/Clarifying information needed: *Identity of staff member witness to Incident 1; does medical staff at hospital believe that hip fracture consistent with being pushed down stairs; what did Marie tell staff at hospital about injury to hip; has law enforcement attempted to search for and seize firearms accessible to or owned by Harry; has Harry been interviewed and if so, by whom; was Marie offered and if so, did she consent to a sexual assault forensic examination.*

Element 3: *Inflicts unjustified physical pain on victim*

Evidence to support element: *Push down stairs resulted in great bodily injury requiring surgery; potential damage that could have been caused by punch to surgical area on hip (Incident 1); potential damage from forcible sex acts (Incident 2) to surgical area, chest, mouth, etc. Witnesses to Marie's physical pain and discomfort from the assaults; witnesses to Harry's statements and threats.*

Witness: *Staff member; care nurse; Marie, medical staff at hospital and SNF*

Missing Information/Clarifying information needed: *Identity of staff member for Incident 1; identify an expert to discuss pain and consequences of incidents*

Trainer Notes: **This case often elicits a strong reaction and participants often ask if elder abuse is all that can be charged. You may want to mention that in this and all other case studies, crimes other than elder abuse could be charged.**

Case 4

Doris Miller, 79 years of age, 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 was unaware of Sandra's actions.

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

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

The sons were unaware that their mother had suffered a stroke. Both immediately came to the hospital. Sandra refused to let them see Doris without being 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.

Crime: *PC 368(e) Financial abuse by caretaker*

Element 1: *Victim is an elder (note: do not have to prove knowledge that victim is an elder)*

Evidence to support element: *Birth certificate, photos, Doris can testify to this if competent, nature of relationship between Doris and Sandra (note: if a doubt as to age, can also prove Doris is a dependent adult based on same witnesses, medical testimony about her vision and hearing problems and inability to handle financial matters)*

Witnesses: *Sons, stockbroker, APS*

Missing Information/Clarifying information needed: *Documents establishing Doris' age, is Doris competent to testify?*

Element 2: *Defendant committed theft, embezzlement, and forgery (only need to prove one)*

Evidence to support element: *Bank re movement of funds, closing of accounts; Stock broker re attempt to close out brokerage account; evidence of isolating Doris from children; pawn shop receipts and identifiers on them (could have a fingerprint); ID of items pawned by defendant as Doris'; auto dealership records of sale and statements made by Sandra; power of attorney; casino records and photos or video*

Witness: *bank staff; stock broker; auto dealership employee who made sale with Sandra posing as Doris; Motor Vehicle licensing agency (to whom car registered); sons, if POA prepared by someone other than defendant, that person; physician(s) on medical and cognitive issues; APS as to their observations of Doris' abilities; Casino staff*

Missing Information/Clarifying information needed: *Supporting documents for car sale, pawn shop transactions; medical assessment documents; who can identify Sandra regarding various transactions; amount of money spent at casino during time Sandra was with Doris*

Element 3: *Loss exceeds \$950.00*

Evidence to support element: *Value of new car; bank statements showing withdrawals or movement of money to Sandra or to benefit Sandra; pawn shop records; casino records.*

Witness: *car dealer; bank employee; any appraisals of pawned jewelry; jeweler to testify to jewelry's value; casino staff*

Missing Information/Clarifying information needed: *Any insurance or appraisal for items of jewelry.*

Case 5

Millie Graham, aged 89 years, 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 was unable to get anyone to answer the door. She became concerned as this is her regular time to visit and Millie has never missed a session. Her calls to the home were unanswered.

The nurse looked in a side bedroom window and saw Millie sitting beside a heavy dresser. Millie 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 pressure sores 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 Philip went to the airport. The neighbor called Philip on his cell phone and learned that he was visiting friends in another state

Crime: *Penal Code 368(f) False Imprisonment of an Elder (Note: Group Could Alternatively Decide to Use 368(b)—Neglect by a Caregiver)*

Element 1: *Victim is an elder and Philip knew it*

Evidence to support element: *Appearance, relationship between parties (he is her son and a paid caregiver to provide needed services), eligibility records for supportive services and custodian of records*

Witnesses: *APS professional, Nurse, Neighbor, possibly Millie if she survives and is competent*

Missing Information/Clarifying information needed: *Records showing her age*

Element 2: *Defendant Used Fraud, Menace, Deceit, or Violence*

Evidence to support element: *Tied to furniture (violence),*

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Continue

Witness: *Nurse, neighbor*

Missing Information/Clarifying information needed:

Element 3: *Defendant falsely imprisoned Millie*

Evidence to support element: *Tied to furniture, unable to get up and answer tap at window, state of room and Millie (human waste on clothes, absence of needed food, water, warmth, sanitation) APS observations (smell), medical staff (her medical state)*

Witness: *Nurse, neighbor, APS professional (if made observations), medical staff and records, EMTs who transported*

Missing Information/Clarifying information needed: *How prove that Philip tied Millie up? What did he say to neighbor or to APS or law enforcement (if contacted), cell phone or email records showing that Philip did or did not arrange to provide care for Millie while away.*

Report Out (20 min)

Ask each group's Spokesperson(s) to provide a **brief** case overview starting with their one-minute of case facts and then briefly provide: the crime, its elements, and evidence that support each element.

Trainer Note: Each group report out should be no more than 5 min.

Debrief Activity VII: (5 min)

Ask class what they took away from this activity. **Take** a few answers.

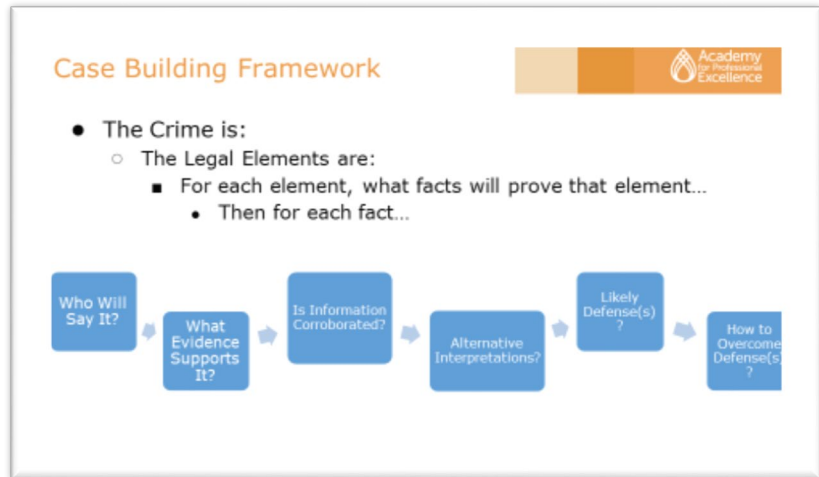
Possible answers:

1. More objective way to evaluate the case
2. Identify missing evidence or elements so can go back and obtain
3. Recognize when a case cannot be proven.
4. Convince the criminal justice system that a crime can be proven

Congratulate them on completing a difficult task.

Explain this one-minute overview is important to do as it requires thinking about what information the criminal justice system needs for a prosecution which is different from how APS typically thinks about its case. The criminal justice system is focused on identifying and proving crimes and those accountable for them. In contrast, APS, once it is able to sustain or found an allegation is focused on the client's needs, reducing risk, and offering services.

Slide 56: Case Building Framework

**Lecturette: Framework (5 min)**

Guide participants to **Handout #7- Case Building Framework**. It is a variation on what they have just done in this activity but is in a chart-like form which they may want to use in their everyday work.

Explain this framework helps narrow down the focus like the one-minute overview they just did.

Acknowledge that this shift in focus will take practice because APS and CJS have different views and concerns.

1. APS may have a different “world view” of what is important than the criminal justice system has. APS often has more extensive history and focus on the “why”.
2. Understanding that the criminal justice system needs to focus on the crime itself and tailoring your focus when presenting a case will better engage law enforcement and prosecutors.
3. APS needs different information than the criminal justice system does in order to act. Tailoring the presentation to what the criminal justice system needs better protects aspects of client confidentiality.

Trainer Note: It is helpful to have participants reflect back on Activity II covered in the morning session (APS vs LE lens).

Explain: The prosecution has a legal and ethical duty to provide the defense with all evidence supporting a defendant's innocence as well as evidence supporting a lighter sentence and/or less criminal culpability (e.g., charged with first degree murder but evidence or information may support a less serious crime such as manslaughter).

Continued

Once information is turned over to the prosecution by APS, even information that APS did not need to provide, it is often difficult to prevent that information from being provided on discovery.

This is not to suggest that APS should ever withhold information when providing it to the prosecution but only to remind APS professionals that there may be confidential medical or mental health information that the worker gathered to assist in an effective case plan that is unrelated to the criminal justice system determination of guilt and innocence. If APS has concerns about whether a particular item should be turned over, before sharing it, discuss with an APS supervisor or APS legal representative.

HANDOUT #7- 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?

Fact 1:

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

Fact 2:

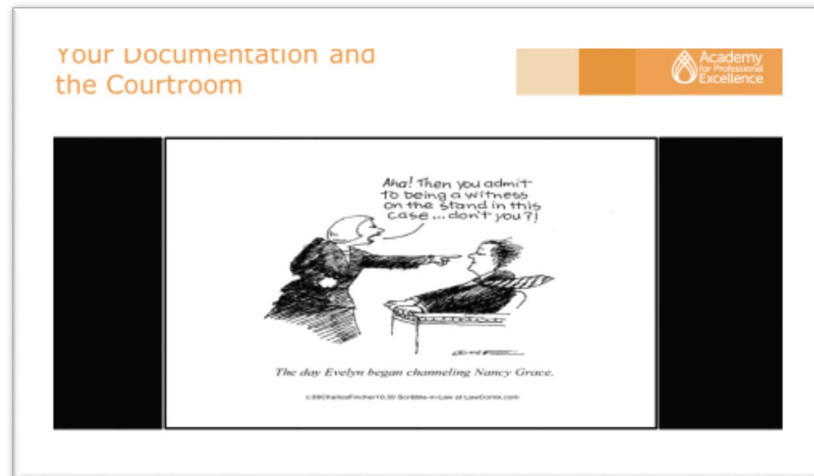
Who Will Say It	What Evidence Supports It	Is information corroborated	Alternative interpretations	Likely Defense(s)	How Overcome Defense (s)

LESSON 5: YOUR DOCUMENTATION AND THE COURTROOM

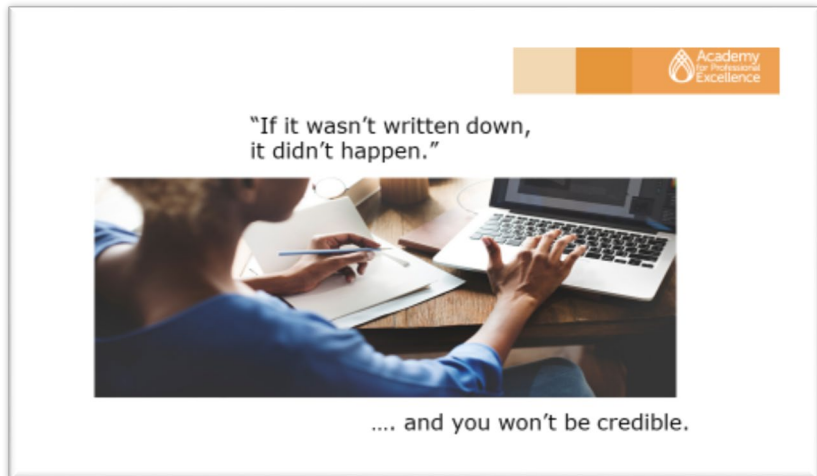
Time Allotted: 35 minutes

Trainer Note: This lesson is planting the seed for a more in-depth lesson on documentation in an Advance Training. It's suggested that you address that with the participants, as they may want more of this lesson and it can go longer than time allotted.

Slide 57: Your documentation



Trainer Note: This section uses activities occurring in a courtroom, but the purpose is not to teach participants about how to testify or aspects of courtroom procedure. The courtroom setting is used to make the link that effectiveness as a witness is directly related to the thoroughness of the worker's documentation.


Slide 58: If it wasn't written**Lecturette: Importance of documentation and Cross Examination (10 min)**

Explain: The APS professional's effectiveness is dependent on complete documentation.

- 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 59: Direct and Cross Examination

**Direct and Cross Examination:
Your Documentation in Court**



Direct Examination	Cross Examination
<ul style="list-style-type: none">○ 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	<ul style="list-style-type: none">○ 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

Explain: it is likely in a criminal case that the APS professional will be called as a witness. Most often it is the prosecutor who will call the worker as a witness but the defense may also do so. 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.

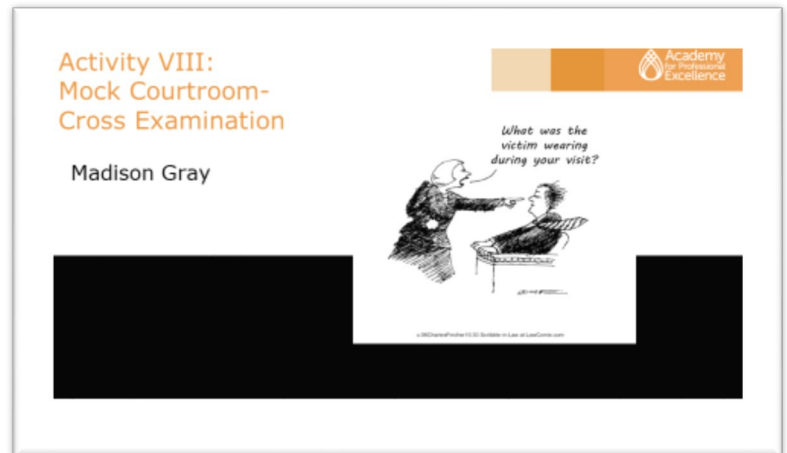
Direct Examination: questions asked of you by the attorney who has called you to testify. These are usually non leading questions that ask you to describe what you saw, heard or did.

Examples: On June 20th about 1130, where were you? What took you to that address? What was your purpose in going there?

Cross Examination: Questions that follow direct examination that are intended to advance the other side's case theory and/or to challenge the information (or you as a witness) provided on direct examination. Leading questions are more narrowly phrased and often ask for a yes or no answer.

Examples: "Is it fair to say, or would you agree, are you telling me?"

Slide 60: Activity VIII: Mock Courtroom

**Activity VIII: Mock Courtroom-Cross Examination (15 min)****Trainer Note:**

This activity is to allow participants to feel what it might be like to testify and have their documentation and memory called in to question. Participants should walk away having a clear understanding of how important careful and thoughtful documentation is. Prior to this activity, a participant should be chosen who will play the role of Madison Gray, APS worker, and provided a copy of Handout #9b- Madison Gray's Direct Testimony with Cross (Role Player Copy) as this has the information she cannot recall. Two copies are provided in this Trainer's Manual; labeled Trainer Copy (9a) and Role Player Copy (9b).

Explain: We're going to take the case of Mrs. Xander and her daughter Marianne and push this forward. Marianne has been charged with elder abuse. The case is in trial and the prosecution has called the APS worker, Madison Gray, to testify.

Ask participants to locate **Handout #8- Madison Gray's Direct Testimony** and to pick a partner from their table. Working in pairs, they have **5 min** to review the summary and develop 2-3 cross examination questions. **Remind** them they should think like a defense attorney.

Place a chair at the front of the room and **ask** the witness role player to have a seat on the "witness stand".

Explain: We're going to take **7-10 minutes**, going around pair by pair and one of you will ask the witness, Ms. Madison Gray, one of your questions. We are not going to worry if they would be objected or not in real court. The goal is to demonstrate to participants the relationship between documentation and court proceedings.

Court is now in session!

Allow participants to ask their questions.

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Handout #9a- Madison Gray's Direct Testimony with Cross (for Trainer only) **TRAINER COPY**

Trainer Notes:

Information she might be questioned on and can't recall in cross exam is in *italics*. *These might be called into question and should not be made up on the spot*".

Madison Gray has testified on direct as follows:

Background

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

Received Case

- Received report of suspected neglect of Mrs. Xander by her daughter Marianne
- Spoke to neighbor Nancy who said
 - She and Mrs. Xander have been friends for 25 years and always used to play bridge until Mrs. Xander grew increasingly confused and could not remember the game rules. Mrs. Xander occasionally would wander away.
 - She had seen a major change in Mrs. Xander's appearance.
 - About a year earlier Mrs. Xander's daughter Marianne moved in to help her.
 - Mrs. Xander was becoming very confused and had serious arthritis so she could no longer write check or maintain her home.
 - Mrs. Xander came to Nancy's door and was dirty and crying. She said she was hungry, cold, and alone. Nancy gave Mrs. Xander food and wrapped her in a blanket.
 - She walked Mrs. Xander 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. Xander's home with Nancy, the neighbor
- Introduced to Mrs. Xander
- Observations:
 - Mrs. Xander is dirty though you 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 you are not sure what she was wearing
 - It was a cold day you can't remember the temperature
 - The house is cold and messy. You recall 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. Xander 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. Xander on the dining room table which you believed had to be at least several months old. You are 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. You are uncertain what bills were included in the pile of mail.
 - Conversation with Mrs. Xander
 - Mrs. Xander is unable to answer most of your questions but you cannot specifically recall what the questions were
 - Mrs. Xander continually addresses you 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 18 on the MoCA screening assessment but you can't recall which items were missed
 - Actions
 - Arranged for Mrs. Xander to be medically examined
 - Arranged for Mrs. Xander to have a temporary caregiver
 - Contacted the court to appoint a temporary guardian/conservator

Handout #9b- Madison Gray's Direct Testimony with Cross (for Trainer only to be given to the role player/ Madison Gray) **ROLE PLAYER COPY**

Role Player Notes:

Information you might be questioned on and can't recall in cross exam is in *italics*. *These might be called into question and should not be made up on the spot*".

Madison Gray (**you**) has testified on direct as follows:

Background

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

Received Case

- Received report of suspected neglect of Mrs. Xander by her daughter Marianne
- Spoke to neighbor Nancy who said
 - She and Mrs. Xander have been friends for 25 years and always used to play bridge until Mrs. Xander grew increasingly confused and could not remember the game rules. Mrs. Xander occasionally would wander away.
 - She had seen a major change in Mrs. Xander's appearance.
 - About a year earlier Mrs. Xander's daughter Marianne moved in to help her
 - Mrs. Xander was becoming very confused and had serious arthritis so she could no longer write check or maintain her home.
 - Mrs. Xander came to Nancy's door and was dirty and crying. She said she was hungry, cold, and alone. Nancy gave Mrs. Xander food and wrapped her in a blanket.
 - She walked Mrs. Xander 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. Xander's home with Nancy, the neighbor
- Introduced to Mrs. Xander
- Observations:
 - Mrs. Xander is dirty though you 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 you are not sure what she was wearing
 - It was a cold day you can't remember the temperature
 - The house is cold and messy. You recall 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. Xander 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. Xander on the dining room table which you believed had to be at least several months old. You are 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. You are uncertain what bills were included in the pile of mail.
 - Conversation with Mrs. Xander
 - Mrs. Xander is unable to answer most of your questions but you cannot specifically recall what the questions were
 - Mrs. Xander continually addresses you 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 18 on the MoCA screening assessment but you can't recall which items were missed
 - Actions
 - Arranged for Mrs. Xander to be medically examined
 - Arranged for Mrs. Xander to have a temporary caregiver
 - Contacted the court to appoint a temporary guardian/conservator

Handout #8- Madison Gray's Direct Testimony (PARTICIPANTS COPY)

Madison Gray has testified on direct as follows:

Background

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

Received Case

- Received report of suspected neglect of Mrs. Xander by her daughter Marianne
- Spoke to neighbor Nancy who said
 - She and Mrs. Xander have been friends for 25 years and always used to play bridge until Mrs. Xander grew increasingly confused and could not remember the game rules. Mrs. Xander occasionally would wander away.
 - She had seen a major change in Mrs. Xander's appearance.
 - About a year earlier Mrs. Xander's daughter Marianne moved in to help her
 - Mrs. Xander was becoming very confused and had serious arthritis so she could no longer write check or maintain her home.
 - Mrs. Xander came to Nancy's door and was dirty and crying. She said she was hungry, cold, and alone. Nancy gave Mrs. Xander food and wrapped her in a blanket.
 - She walked Mrs. Xander 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. Xander's home with Nancy, the neighbor
- Introduced to Mrs. Xander
- Observations:
 - Mrs. Xander is dirty
 - She was not dressed appropriately for the weather
 - It was a cold day
 - The house is cold and messy.

- There were photos on a bookcase which showed Mrs. Xander 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. Xander on the dining room table which you believed had to be at least several months old.
- Conversation with Mrs. Xander
 - Mrs. Xander is unable to answer most of your questions
 - Mrs. Xander continually addresses you 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 18 on the MoCA screening assessment
- Actions
 - Arranged for Mrs. Xander to be medically examined
 - Arranged for Mrs. Xander to have a temporary caregiver
 - Contacted the court to appoint a temporary guardian/conservator

Slide 61: Debrief of Mock Courtroom

**Mock Courtroom Debrief:
Lessons Learned**



- Importance of complete documentation to enhance memory and credibility as a witness
- You must talk from your documentation

Debrief of Mock Courtroom (10 min):

Trainer Note: If time allows, do a short cross of 1-2 points after the students have asked their questions.

Ask what they took away from this activity. **Take** 3-5 quick responses.

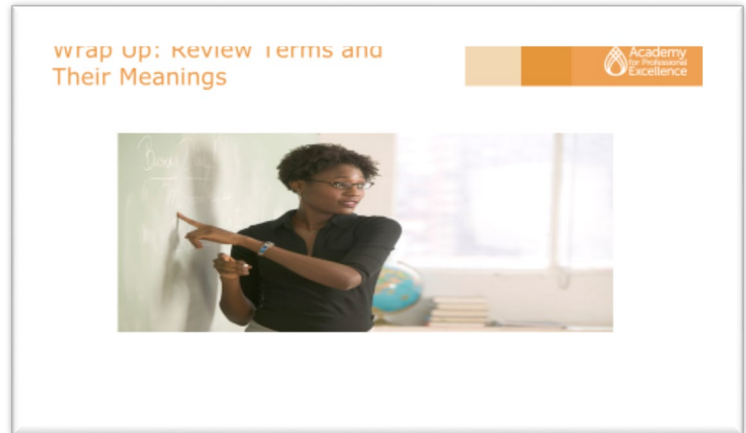
Possible answers may include:

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

CONCLUSION

Time Allotted: 20 minutes

**Slide 62: Terms and Their Meanings
Wrap up**



Explain: We're going to review the Terms and Their Meaning Handout (**Handout #1**) but before we do, **ask** if there are any questions from today's material?

Activity IX: Terms and Their Meaning Recap (5 min)

Review and **correct** handout as class.

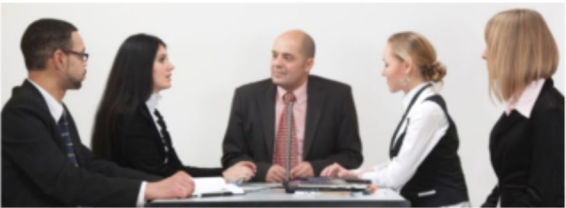
Terms and Their Meaning (with answers)

Term	Definition
Felony (k.)	a. Court order requiring a person to appear as a witness in an action or to produce records
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 (a.)	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
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. Ordinarily the first testimony of a witness; usually asking of questions by the side with which the witness is naturally aligned

Slide 63:TOL


Transfer of Learning Tool (TOL) 




Build this into your Supervision time, applying skills you've gained from today!

Ask participants to locate Transfer of Learning (TOL) in their manuals (in appendix).

Explain: This is for you and your Supervisor to utilize with a current case of yours. Ensure your Supervisor has a copy and build this in to your supervision time. You are applying the skills you've gained from today's training with this tool.

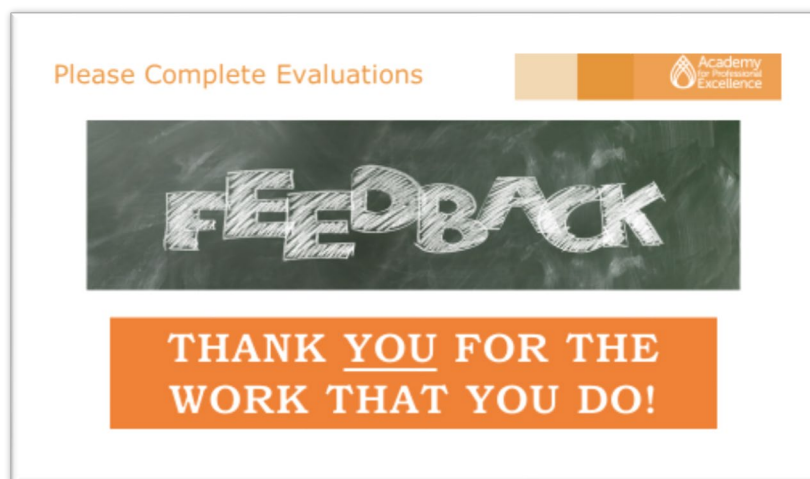
Slide 64: 2 things?

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



Explain: Before filling out evaluations, let’s take a moment and quickly write down two things you will do to enhance your effectiveness when working with the CJS.

Ask if anyone is willing to share (take 3-5)

Slide 68: Evaluations**Evaluations (10 min)**

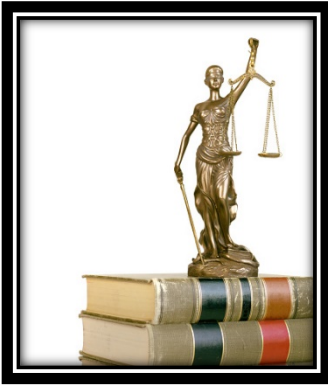
Direct participants to the evaluations.

Emphasize that their feedback is vital to meet the needs of the APS programs, we encourage honesty and suggestions.

Thank them for coming, working hard, and serving the elderly members and dependent adults of their community!

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- AEquitas, The Prosecutor Resource (2017) Elder Abuse, available at <http://www.aequitasresource.org/Prosecutors-Resource-on-Elder-Abuse.pdf>
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Victims' Bill of Rights "Marsy's Rights" California Constitution, Article I, Section 28(b)

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

1. To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
2. To be reasonably protected from the defendant and persons acting on behalf of the defendant.
3. To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.
4. To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.
5. To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
6. To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.
7. To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.
8. To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.

9. To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.
10. To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.
11. To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.
12. To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.
13. To restitution.
 - A. it is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.
 - B. Restitution shall be ordered from the 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))

Selected Statutes on Elder Abuse- California

This chart provides examples of the crimes that may apply in elder abuse cases in addition to information about other law enforcement responsibilities and arrest authority. This document is intended for reference and not every entry will be covered during the Working with the Criminal Justice Module. ***It is suggested that facilitator create a similar one for their state and provide as a handout for each student to use in the field.***

Notes:

- “PC” is Penal Code
- To view statutes, go to www.leginfo.ca.gov; select California Law button; then select correct Code; then scroll down to desired section

Types of Crimes	Statutes	Clarifying Notes
Elder Abuse Penal Code 368	<p> <u>368(a)</u> Legislative findings; <u>368(b)</u> physical abuse, neglect by caregiver, infliction of unjustified emotional suffering or physical pain under circumstances likely to result in great bodily injury or death (F/M); <u>368(c)</u>- same acts as 368(b) except under circumstances less than those likely to result in great bodily injury or death (M); <u>368(d)</u> financial abuse by any person, must prove suspect knew victim is an elder; <u>368(e)</u> financial abuse by caregiver, do not need to prove suspect knew victim to be an elder (F,M); <u>368(f)</u> false imprisonment by violence, threats, deceit or menace (F) </p> <ul style="list-style-type: none"> • Welfare and Institutions Code 15610.53 	<p> <u>Elder</u> is person 65 or above; <u>Dependent adult</u> is person between 18 and 64 who has a mental or physical limitation 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 abilities have diminished because of age; includes persons admitted to various health care facilities (even briefly) </p> <ul style="list-style-type: none"> • Suspect must know or reasonably should know victim is an elder or dependent adult • “Caretaker” for 368(b) is person who willfully causes or permits person or health of an elder or dependent adult to be injured or willfully places victim in a situation where their person or health is endangered • "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, or cause severe depression or serious emotional distress of the elder or dependent adult. • Penal Code 368(c) penalty is 6 months county jail; \$1000 fine; or both

Battery on an Elder Penal Code 243.25	Battery committed against an elder (M) <ul style="list-style-type: none"> • Must know victim is elder or dependent adult 	Enhanced penalty of 1 year county jail; \$2000 fine, or both
Misuse of Drugs and Medications	<ul style="list-style-type: none"> • PC 368(b) and (c) • PC 222 	<ul style="list-style-type: none"> • Denial of pain medication; neglect for denial or mismanagement of prescribed medications • Administering of stupefying drugs to assist in the commission of a felony (PC 222 includes use of chloroform, ether, laudanum, a controlled substance, anesthetic, or intoxicant)
Domestic Violence	<ul style="list-style-type: none"> • PC 273.5 • PC 243e(1) 	<ul style="list-style-type: none"> • Willful infliction of injury on current or former (intimate) cohabitant, spouse, dating or engaged parties, or parent of a child in common • Battery as applied to domestic violence—no injury (misdemeanor) <p>Practice note: See Psychological abuse crimes below</p>
Assault Crimes	<ul style="list-style-type: none"> • PC 245(a)(1) • PC 245(a)(4) • PC 243d • PC 203 • PC 206 • PC 187 • PC 664/187 	<p>Practice Note: Most general crimes may apply in elder abuse cases. Law enforcement, in accordance with local policy and practice, should consider charging these general crimes in addition to PC 368</p> <ul style="list-style-type: none"> • Assault with a deadly weapon • Assault by means likely to cause great bodily injury; • Assault resulting in serious bodily injury • Mayhem • Torture • Murder • Attempted murder
Kidnapping	<ul style="list-style-type: none"> • PC 207 • PC 236 • PC 368(f) 	<ul style="list-style-type: none"> • Kidnapping • False Imprisonment • False Imprisonment of an Elder or Dependent Adult
In neglect cases, the following statute may be worth considering: Failure to Provide for Indigent Parent	<ul style="list-style-type: none"> • PC 270(c) 	<ul style="list-style-type: none"> • Adult child with ability to provide necessary food, clothing, shelter, or medical assistance for indigent parent fails to do so (M) • Exemptions (Family Code 4410) for abandonment of the now adult child while a minor; willful abandonment by the indigent parent • Adult child must petition court for release from duty to provide • Continuing offense; each day can be separate offense

Public nuisance	<ul style="list-style-type: none"> • Penal Code 370 	
Sex crimes	<ul style="list-style-type: none"> • PC 261(a)(1) • PC 261(a)(3) • PC 262 • PC 288(b)(2) w/ force • PC 288(c)(2) no force • PC 288a(f) • PC 288a(g) • PC 288a(h) • PC 286(f) • PC 286(g) • PC 286(h) • PC 289(b) • PC 289(c) • PC 289(d) • PC 207(b) • PC 209(b)(1) • PC 220 	<ul style="list-style-type: none"> • Rape of incompetent person • Rape by intoxicant, controlled substance, anesthetic • Spousal Rape • Lewd act by caretaker on dependent adult • Lewd act by caretaker on dependent adult • Oral copulation of unconscious person • Oral copulation of incompetent person • Oral copulation of incompetent victim by fellow patient • Sodomy of unconscious victim • Sodomy of incompetent victim • Sodomy of incompetent victim by another state hospital patient • Sexual penetration of incompetent victim • Sexual penetration of incompetent person by fellow patient • Sexual penetration of unconscious victim • Kidnap for lewd act on dependent adult • Kidnap to commit sex crime • Assault with intent to commit forcible sex crime
Psychological Abuse Examples of crimes that may apply in psychological abuse of elders	<ul style="list-style-type: none"> • PC 597(a)-(b) • PC 422 • PC 646.9 	<ul style="list-style-type: none"> • Animal abuse • Criminal threats • Stalking

	<ul style="list-style-type: none"> • PC 594 	<ul style="list-style-type: none"> • Vandalism, malicious mischief
<p>Financial Abuse</p> <p>Note: Threshold for felony is \$950.00; less is a misdemeanor for theft crimes</p>	<ul style="list-style-type: none"> • PC 211 • PC 459 • PC 470, 476 • PC 484, 487 • PC 484d-484j • PC 502 • PC 529, 529a, 530 • PC 530.5 • PC 531 • PC 118, 118a • PC 115 • Business and Professions 7028 • Government Code 8214.2, 8225 	<ul style="list-style-type: none"> • Robbery • Burglary • Forgery, False Instruments (Includes crimes by notaries) • Theft, grand theft • Access (credit) card crimes • Computer crimes; • False impersonation; false birth certificate; fake ID • Identity theft • Fraudulent conveyances • Perjury, false affidavits • Recordation of a fraudulent document • Contractor without a license doing construction • Crimes by notaries public
<p>Violations of Civil Court Orders, including Elder Abuse Restraining Order, Emergency Protective Orders, and Domestic Violence Orders</p>	<ul style="list-style-type: none"> • PC 273.6 • (Mandatory arrest for Law Enforcement absent special circumstances) 	<ul style="list-style-type: none"> • Violation of a state or foreign protective or restraining order
<p>Violation of Criminal Court Orders</p>	<ul style="list-style-type: none"> • PC 166 (b) or (c) 	<ul style="list-style-type: none"> • Violations of criminal court orders such as a criminal protective order and post-conviction order in an elder abuse, domestic violence, or sex crime case (order may be valid up to 10 years)

Other Useful Code Sections in Elder and Dependent Adult Abuse Cases (Not Crimes)

<p>Peace Officer Authority to Protect Estates</p>	<ul style="list-style-type: none"> • Probate Code 2950-2954 	<ul style="list-style-type: none"> • Peace officer with special training may complete a declaration that is signed by the peace officer and an APS supervisor that is submitted to the Public Guardian (PG). PG may rely on declaration to take possession and control of real and personal property of an impaired elder who is believed unable to manage his/her financial resources or resist fraud or undue influence. • Property may be held by the elder or jointly held by the elder and suspect • The peace officer must have completed a POST certified elder financial abuse course or been a lecturer at such a course
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		<ul style="list-style-type: none"> • Must be probable cause that an elder is substantially unable to manage his or her financial resources or to resist fraud or undue influence; • Must be a significant danger the elder will lose all or a portion of his/her property as a result of fraud or misrepresentation or the elder’s mental capacity • There is probable cause to believe a crime is being committed against the elder • The crime is connected to the inability of the elder to manage his or her financial resources or to resist fraud or undue influence, and the inability is the result of deficits in the elder’s mental functions • The peace officer must have consulted with an individual qualified to perform a mental status examination
Violent Crime Reporting by Medical Professionals	<ul style="list-style-type: none"> • PC 11160-11162 	<ul style="list-style-type: none"> • Health practitioners individual mandate to report to law enforcement • Patient known to have suffered a wound or injury from assaultive or abusive behavior • Includes criminal assaults, murder, battery, domestic violence, and elder abuse • Failure to report is a misdemeanor
Elder Abuse Reporting Law (not employees of financial institutions)	<p>Welfare and Institutions Code 15600-15640</p> <ul style="list-style-type: none"> • Welfare and Institutions 15630(h) 	<ul style="list-style-type: none"> • Law enforcement, health practitioners, care custodians, clergy in certain circumstances are mandated reporters of elder and dependent adult abuse. • Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or suffering and deprivation by a care custodian of goods or services necessary to avoid physical harm or mental suffering • Failure to report or impeding or inhibiting another from reporting abuse is a misdemeanor punishable by 6 months in county jail, a fine of \$1000.00 or both; if the abuse reports in death or great bodily injury the penalty is 1 year in county jail, a fine of \$5000.00 or both • Intentional concealment of the failure to report abuse or severe neglect is a continuing offense
Elder Abuse Reporting Law	<ul style="list-style-type: none"> • Government Code Section 7480; Welfare and Institutions Code 	<ul style="list-style-type: none"> • Employees of financial institutions are mandated reporters of financial abuse

Court Orders		
<ul style="list-style-type: none"> Emergency Protective Orders 	<ul style="list-style-type: none"> Family Code 6250 Penal Code 646.91 Penal Code 273.6 Penal Code 836(c) 	<ul style="list-style-type: none"> Obtained by law enforcement at any time of day including when courts closed Telephonic order Short term and immediate protection Domestic violence, stalking, and elder abuse (except financial abuse) Based on recent incident or threatened incident and LE believes order necessary to prevent an occurrence or reoccurrence Violation is a misdemeanor “Shall arrest”
<p>Domestic Violence Prevention Act</p>	<ul style="list-style-type: none"> Family Code 6200 et seq., and 6300-6345. Penal Code 29825 Penal Code 273.6 Penal Code 836(c)(1) 	<ul style="list-style-type: none"> Civil court order requested by a private party. To restrain any person to prevent a recurrence of domestic violence and ensuring a period of separation of the parties Court may issue orders enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including annoying telephone calls, destroying personal property, contacting, or coming within a specified distance of, or disturbing the peace of the other party, etc. Court can also order exclusion from the residence, Abuse committed against spouse, former spouse, current or former cohabitant, person with whom there is a current or former dating relationship, person with a child in common and the male is the presumed father, child, persons related by blood, marriage, or adoption. Must relinquish firearms and not possess or acquire firearms while the order is in effect Violations are misdemeanors “Shall arrest”
<p>Non harassment</p>	<ul style="list-style-type: none"> Code of Civil Procedure 527.6 	<ul style="list-style-type: none"> To enjoin harassment defined as unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person, who seriously alarms, annoys, or harasses, and serves no legitimate purpose. The course of conduct must be such as would cause a

	<ul style="list-style-type: none"> • Penal Code 29825 • Penal Code 273.6 • Penal Code 836(c)(1) 	<p>reasonable person to suffer substantial emotional distress, and the victim must actually suffer substantial emotional distress.</p> <ul style="list-style-type: none"> • Must relinquish firearms and not possess or acquire firearms while the order is in effect • Violations are misdemeanors • “Shall arrest”
Corporate (workplace violence)	<ul style="list-style-type: none"> • Code of Civil Procedure 527.8 • Penal Code 29825 • Penal Code 273.6 	<ul style="list-style-type: none"> • An employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, which can reasonably be construed to be carried out, or have been carried out at the workplace. Unlawful violence includes assault, battery, and stalking. • The court can protect persons living with the protected party • Must relinquish firearms and not possess or acquire firearms while the order is in effect • Violation a misdemeanor
Elder Abuse Restraining Order	<ul style="list-style-type: none"> • Welfare and Institutions 15657.03 • Welfare and Institutions 15610.07 • Penal Code 29825 • Penal Code 273.6 • Penal Code 836(c)(1) 	<ul style="list-style-type: none"> • Provides relief for an elder or dependent adult who has suffered abuse • Effective, 7-1-16, APS may request • Abuse includes: physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical pain or mental suffering, and deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering • Must relinquish firearms and not possess or acquire firearms while the order is in effect • Violation a misdemeanor • “Shall arrest”
Criminal Protective Order	<ul style="list-style-type: none"> • Penal Code 136.2 • Penal Code 29825 • Penal Code 273.6 • Penal Code 836(c)(1) 	<ul style="list-style-type: none"> • Issued as part of a criminal case • To prevent witness intimidation or threats • Court can issue any order it deems necessary • Must relinquish firearms and not possess while order is in effect • Violation a misdemeanor (in addition to any other included crimes) • “Shall arrest”
Misdemeanor Arrest Authority	<ul style="list-style-type: none"> • Penal Code 836(d) 	<ul style="list-style-type: none"> • Peace officer may make a warrantless arrest for an assault or battery not in presence without a

		<p>citizen’s arrest/private person’s arrest with probable cause to believe an assault or battery has occurred and the arrest is made as soon as a s probable cause arises</p> <ul style="list-style-type: none"> • Relationship between the parties is one of the following: current and former spouses or cohabitants (includes household members), parents of a child in common, presumptive parent, suspect’s child, a current and former dating or engaged parties, and persons related through consanguinity or affinity within the second degree (includes parents, grandparents, grandchildren, siblings, in laws and step relations), as well as any person 65 or older and related to the suspect through blood or legal guardianship
	<ul style="list-style-type: none"> • Penal Code 836(c)(1) 	<ul style="list-style-type: none"> • Officers shall make a warrantless arrest for a misdemeanor not in presence without a citizen’s arrest/private person’s arrest with probable cause to believe: • Violation of a domestic violence, criminal protective order, stalking emergency protective order, non harassment order, or elder abuse restraining order • Violation requires proof <ul style="list-style-type: none"> ○ A valid order exists; ○ Restrained party has notice of the order (has been served or was present when the court issued the order), and ○ Has violated a term or condition of the order

Module 22

APS-Working with the Criminal Justice System

Transfer of Learning (TOL) Activity

-Candace Heisler



The Topic: The Criminal Justice System and Adult Protective Services have different scopes of work and obligations. When there is an understanding of each party's role, it makes for a positive collaboration and outcome for the client. During the instructor-led course, participants uncovered the rules of the road within the criminal justice system and explored where their role as an APS Professional intersects. The training goal is to improve APS's ability to work with the criminal justice system and to help build cases that are more likely to be accepted for prosecution.

Training Learning Objectives:

1. Distinguish the role of Adult Protective Services from the role of Law Enforcement and Prosecution
2. Identify factors that make a provable case to take to the criminal justice system.
3. Explain APS's role when a case is accepted for prosecution
4. Identify rights of victims and defendants
5. Identify the elements of a crime when given the statute
6. Explain the importance of APS documentation to enhance credibility when testifying in a criminal case
7. Utilize a case scenario to develop 2 questions for cross examination

Overview of TOL Activity:

This activity should be completed after participation in the "APS-Working with the Criminal Justice" Core Competency, **preferably no more than 45 days after the in-person class**. It is intended to help the APS professional apply the elements structure of crimes to a real case the worker is handling.

The activity has 2 parts.

Part 1 is done by the APS Professional and consists of identifying a case the worker is handling and believes should be presented to the criminal justice system for prosecution followed by the worker's review of the legal elements of the crime of elder or vulnerable adult abuse, as defined by applicable law. The worker identifies the facts and witnesses available to establish each element of the crime. The "APS Professional Case Building Template", included with the activity, will assist the professional in linking the case information to the crime's elements.



Part 2 is completed by the APS Professional with their supervisor either during a unit meeting, one-on-one consultation with the supervisor, or at a multidisciplinary team meeting. The professional presents a brief overview of the case (not to exceed one minute unless case is very complex) which is then followed by a short presentation demonstrating that the elements of the case are provable beyond a reasonable doubt. The entire presentation by the APS Professional should not exceed five minutes (unless the case is unusually complex).

The supervisor or team is free to ask clarifying questions as needed. The supervisor or team should ensure that the presentation focuses only on establishing that a prosecutable case exists. Extraneous information such as the client's psycho-social history, support system, or care needs should **NOT** be included and the supervisor or team should promptly identify such information and refocus the worker on what is needed for the criminal justice system.



Directions for APS Professional:

1. Select a case you are handling or recently have handled that you believe is prosecutable under your criminal statutes related to elder or vulnerable adult abuse.
2. Select one or more crime(s) under your statutes that you think are provable beyond a reasonable doubt.
3. As to each crime, list the elements.
4. As to each elements, list the witnesses and evidence that proves that element.
5. Complete the “APS Professional Case Building Template” included in this activity for each crime.
6. At a meeting with a supervisor, unit, or team present a one-minute synopsis of the key aspects of the case. Focus only on the crime and supportive facts. Think of this as a snapshot of the case and is also your opportunity to urge that your case be prosecuted.
7. After the one minute (or less) statement, briefly review each element of the charge and describe the witnesses and evidence that proves each element. Your case building framework chart will be helpful with this step. The entire case presentation should not exceed five minutes.
8. Identify any potential case weaknesses or problems with the criminal case; e.g.: some evidence might be interpreted in ways that do not point to guilt; alleged perpetrator has made statements which contradict the evidence you have collected; a critical witness is not likely to be available to testify; capacity issues of both your client and the alleged perpetrator, etc.
9. Your presentation should be **objective, reasoned, and balanced.**
10. Your supervisor, colleagues, or team may have some clarifying questions. You will have the opportunity to respond briefly to these.

APS Professional Case Building Framework Template

Reminder: this presentation is focused only on building a case for prosecution. You will have collected information about your client, living situation, and the alleged perpetrator which is important for other aspects of your work as an APS Professional. This information is not likely to be relevant to the criminal case. Therefore, the task here is to focus only on the items that you have learned from your APS investigation that is needed to prove a criminal case.

Review of Case of _____
Date of Presentation _____

Case Building Framework

The crime is: _____

The legal elements of the crime are:

Element 1: (List that element)

1. What facts will establish that element?
2. What witnesses will establish each of the facts?
3. What corroborating information exists for that fact?
4. What evidence supports that fact?
5. Are the facts supportive of any other interpretation from the one you have adopted?
6. Are there any weaknesses as to these facts or this element?

Element 2: (List that element)

1. What facts will establish that element?
2. What witnesses will establish each of the facts?
3. What corroborating information exists for that fact?
4. What evidence supports that fact?
5. Are the facts supportive of any other interpretation from the one you have adopted?
6. Are there any weaknesses as to these facts or this element?

Element 3 onward (same questions)

Directions for the APS Supervisor or others participating in the activity

1. You are an observer and a reviewer, **not** an advocate for or against sending the case to the criminal justice system. Please remain focused only on the criminal justice system aspects of the case.
2. If the presenter is unclear, you may need to ask clarifying questions. If the presenter offers information not relevant to the criminal justice case, please interrupt and redirect the presenter.
3. Please keep track of time, as the entire presentation should not exceed 5 minutes (unless case is especially complex).
4. Offer helpful comments for how the case and presentation might be strengthened and what was done well.

