

RESPONDING TO ELDERLY CRIME VICTIMS

Model PROTOCOL for LAW ENFORCEMENT

Developed by the
Illinois State TRIAD

Illinois State TRIAD

PROTOCOLS ON CRIMES AGAINST The EldERly

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Illinois State TRIAD

PROTOCOLS ON Crimes Against The Elderly

Model Protocol for Law Enforcement

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Illinois State TRIAD

Responding TO Elderly CRIME Victims

Model Protocol for Law Enforcement

Introduction

I. About the Illinois STATE TRIAD

TRIAD is a national initiative sponsored by the American Association of Retired Persons, the International Association of Chiefs of Police and the National Sheriffs' Association. TRIADs have been developed in communities throughout Illinois and the nation to promote crime prevention for the elderly. The Illinois State TRIAD was one of the first statewide TRIADs in the nation.

The Illinois State TRIAD was formed in 1990 in recognition of the need to guide a statewide response to the critical issue of crime against the elderly. The TRIAD is composed of state and local law enforcement, aging, and other professional organizations. The TRIAD conducts regular meetings to improve information-sharing and coordination among its members. The overall goal of the TRIAD is to improve the overall coordinated response to elderly victims of crime that focuses on the safety of the victim and the accountability of offenders.

Since its inception, the Illinois State TRIAD has spearheaded several state-level Initiatives to combat crimes against the elderly. They include: The development of a five day training course for "Elderly Service Officers," with over 400 law enforcement officers and advocates trained across the state; a one and a half day leadership conference, attended by over 120 law enforcement and aging network representatives, that sparked policy-level dialogue about the mutual and sometimes conflicting roles of criminal justice and social services systems; and the development of protocols to assist local communities effectively address "crimes against the elderly. In addition, the first annual statewide TRIAD conference was held on September 4 and 5, 1997 in Schaumburg.

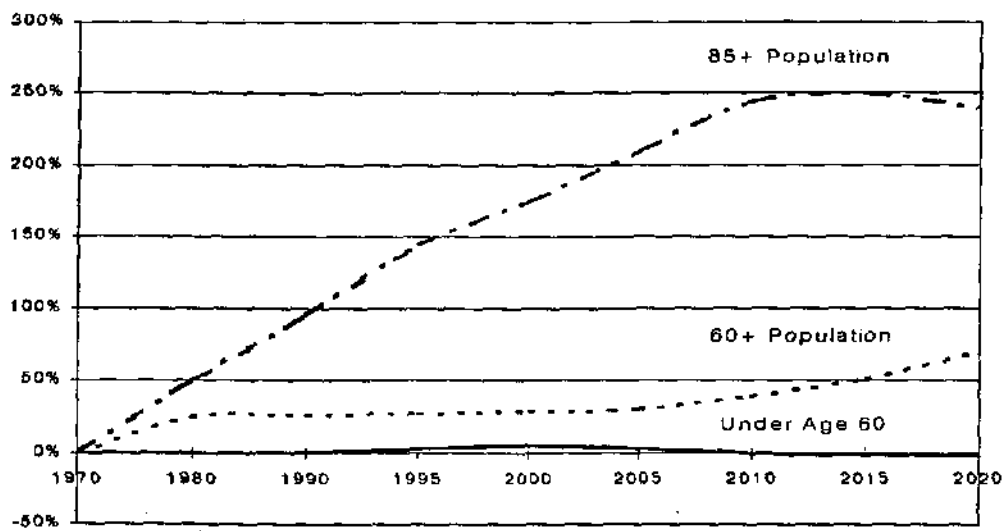
The Illinois State TRIAD has developed protocols for addressing crimes against the elderly at the local level. The protocols have been prepared for law enforcement, prosecutors, the judiciary, and a variety of other professional groups. For more information about the protocols or other TRIAD activities, write to the (Illinois State TRIAD, c/o Law Enforcement Foundation of Illinois, 520 East Allen, Springfield, Illinois 62704.

III. OVERVIEW of Elderly CRJME Victims;

A. Demographics. There are 2 million persons over the age of sixty in Illinois and the elderly comprise the fastest growing segment of the Illinois population.

The population of Illinois has changed considerably over the past twenty years. Where once we considered ourselves a society of youth, we are now becoming a society of middle and old age. The population sixty and older grew by 23% in the last twenty years and will grow another 41 % by the year 2020.

GROWTH IN ILLINOIS' POPULATION 1970 TO 2020



Source: U.S. Bureau of the Census, 1970 - 1990 Illinois Bureau of the Budget, 2000 to 2020.

The elderly now make up 17% of the Illinois' population which means that almost one in six Illinoisans is 60 or older. In contrast, the population under age sixty actually decreased during the same twenty year period. For example, there are 21 % fewer children under the age of fourteen (14) in Illinois than in 1970. In addition:

- ☐ The elderly population in Illinois is itself growing older, one in three older persons are over the age of 75. The population over the age of 85 is expected to increase 84% by the year 2020.

- ❑ The growth of the older population is not uniform across the State. The areas surrounding the Suburban Cook County and collar counties have grown dramatically, whereas Chicago and the rural areas of the State are experiencing declines.
- ❑ 19% of the elderly in Illinois are poor or near poor and the elderly are more likely than other adult population groups to be poor.
- ❑ The minority elderly population grew 35% from 1980 to 1990. Blacks represent 72% of Illinois' minority elderly and increased by 20% since 1980. The Hispanic and Asian elderly population doubled during this ten year period.
- ❑ Elderly women outnumber elderly men 3 to 2 and, at age 85, there are three women to every older man.
- ❑ One in four older persons live alone and are among the most vulnerable and impoverished groups in Illinois.
- ❑ Over half of all older persons are married and 31 % are widowed. Most elderly men are married (75%) while elderly women are three to four times more likely to be widowed as men.
- ❑ As more persons live longer, they also face chronic illness and disabilities. The leading health problems of persons over the age of sixty five are: Arthritis, Hypertension, Hearing Impairments, and Heart Disease.

There are many more older persons living many more years in the State. The U.S. Bureau of the Census claims that the increase in life expectancy is the single most important factor in the growth of the elderly population across the nation. In 1900, the life expectancy at birth was about 47 years. In 1989, the life expectancy at birth was 75 years old - a 28 year difference. A person who lives to the age of 65 today can expect to live another 17 years to the age of 82. This increase in life expectancy can be linked to the declines in mortality among middle-aged and elder populations due to advances in health care and a healthier lifestyle. Illinois can expect a continual increase in the older population well into the 21st century when the "baby boom" generation will begin to turn sixty in the year 2010.

The change in the composition of the population in the State and the sheer number of older persons have important implications for Illinois' law enforcement community. The number of elderly victims entering the criminal justice system can be expected to increase significantly. Traditionally, law enforcement has dealt with crime committed by and against a younger population, This population shift, and the increase in crime targeted specifically to the older population, requires the development of specialized services to address elderly victims of crime.

B. Elderly Victimization

General. Thousands of older persons in Illinois experience some form of criminal victimization each year.

For example, national crime statistics show;

- ❑ Elderly males are more likely to become victims of a violent crime than elderly females, and elderly blacks are victimized at a rate of twice that of their white counterparts.
- ❑ Elderly citizens living in urban settings are three times more likely to experience some form of crime as those living in suburban or rural settings.
- ❑ Rural elderly persons are likely to experience more household related crimes, i.e., burglary, vandalism, than elderly persons living in urban areas.
- ❑ Income also seems to affect elderly victimization - the less income the elderly person has, he or she is twice as likely to experience a violent crime compared to his or her more wealthy counterparts. However, elders with higher incomes experience a higher number of non-violent crimes such as theft, household crime or additional crimes of fraud.
- ❑ Elderly crime victims are almost twice as likely as younger victims to be victimized at or near their homes.
- ❑ Elderly victims of crime, similar to younger victims, may suffer from short-term memory loss.

Although the elderly are victimized less frequently than any other age group, they have higher fear of crime than any other age group. This is largely due to the physical limitations that age places on them. Physiological changes as persons age render them less able to fight or flee from dangerous situations. This is one reason why they are often targeted as potential victims. For example:

- ❑ Although elderly men experience more violent crime than elderly women, elderly women experience almost five times the rate of personal larceny with contact - such as purse snatching or mugging - as do elderly men.
- ❑ Elderly women may seemingly pose little threat to the attacker through resistance or chase than their male equals, making them better targets for crime.

However, when victimized by violent or *property* crimes, the elderly report the crime and participate in its prosecution more than their younger counterparts.

In today's crime stricken world, young children are taught to refrain from speaking to strangers. As a normal part of their daily lives, citizens install multiple locks, security systems, security bars or carry protective devices. They are simply taught at an early age to trust no one, and that crime is an inescapable fact in their lives. However, for many elderly victims, crime victimization is a new concept. Most often, they grew up in an era where *one* did not lock their doors, neighbors were trusted and a stranger was a friend yet to be met.

An increasing percentage of the elderly must rely on family, friends, and paid caregivers in order to remain independent in their own homes. Therefore, when victimized, the elderly victim may suffer far greater emotional consequences than "street-wise" younger persons.

Below is a discussion of elderly crime victimization by certain types of crimes.

Abuse, Neglect, and Financial Exploitation. Based on National Center on Elder Abuse statistics, it is estimated that an elderly person is abused, neglected, or exploited every seven minutes in Illinois. Only one in twelve is reported to the Illinois Department on Aging's Elder Abuse and Neglect Program. Elderly victims suffer from the same psychological affects of domestic abuse as do younger victims of domestic violence. Many elderly victims believe it is safer to remain silent and they often fall into a pattern of "learned helplessness" or "resignation" over time. Some unique characteristics of elder abuse include the following:

- The abuse is rarely an isolated event, but one that is normally repeated over and over again.
- The primary reporters of abuse to the program are social workers, medical personnel, family members, and the victims themselves. Only 4% of all reports are received from law enforcement personnel.
- Of the reports received, more than half involved financial exploitation (55%), followed by emotional abuse (48%), neglect (37%), and physical and sexual abuse (29%), deprivation (11%), and confinement (8%). There is often more than one type of abuse occurring against a victim,
- The average age of a victim is 79 years old. More than two-thirds of elder abuse victims are over the age of 75 and one in four are aged 85 or older.
- Elder abuse is clearly a woman's issue - almost three out of every four elder abuse victims are women.
- Elder abuse is a family issue - three out of four abusers are either the spouse, child or other relative.
- Elder abuse is found among families of all racial, ethnic, and socio-economic backgrounds.
- Victims feels trapped in situations in which they have little control and no chance of escaping. Elder abuse victims may have even fewer options for leaving an abusive environment than younger victims of domestic violence.
- Due to physical imitations or mental infirmities, elderly victims may be unable to protect themselves from further abuse once they report the abuse,
- In other cases, family members may not believe an older person's claim of abuse.
- In many cases, the victim may be embarrassed within their community to report that a child they raised would resort to such behavior - reflecting poorly on them as parents.

- ❑ Although abuse, financial exploitation, and serious neglect of the elderly is a crime, only a small percentage of victims receive assistance through the criminal justice system.

Sexual Assault. For many elderly women, raised in a time when sexual matters were never discussed in the open, becoming a victim of sexual abuse or rape represents the worst possible crime. To have to air one's private sexual life in the public arena of the criminal justice system is unfathomable. Sexual assault is committed not only by strangers but by family members and informal and paid caregivers, including nursing home staff.

- ❑ To many older victims, it is the worst form of lost dignity. There may be profound shame in discussing the crime, or participating in a medical exam with law enforcement and medical personnel.
- ❑ In some rural areas, the rape victim may have never had a pelvic exam, giving birth to her children at home and with the assistance of female family members or a mid-wife only.
- ❑ The shame and guilt may be overwhelming. The elder rape victim may be asked to perform sexual acts that she has never done before, *often* degrading and humiliating her.
- ❑ These acts may have been condemned in her religious training or within her culture. Being forced to perform oral or anal acts may also intensify her feelings of helplessness and shame
- ❑ It is thought that many elder rape victims do not report these crimes for the very reason that they cannot talk about being made to perform such acts.

Rape in older victims can increase the chance of sustaining serious injury. Vaginal linings are not as elastic as those of a younger woman due to hormonal changes; this proclivity towards increased sexual trauma may cause infections, bruising, or tears that may never fully heal. Brittle bones such as the pelvis and hips can be more easily broken or crushed by the mere friction and weight of the rapist.

As an added insult, a large percentage of elderly women are raped in their own homes during the commission of another crime - such as burglary. This type of assault may intensify the older woman's sense of a loss of control. She can't control who enters her home or what happens to her body.

Financial Schemes, Cons, or Frauds. Elderly victims are targeted for crimes of a financial nature more than any other type of victim population. Although the elderly victim of fraud will not sustain any direct physical injury, the psychological impact of this type of crime can be devastating.

- ❑ Older persons are more likely to be victimized by fraud than any other crime. However the Uniform Crime Reports (UCR) do not include entries for many fraudulent activities.
- ❑ It is estimated that the elderly make up 75% to 90% of con game and fraud victims resulting in billions

of dollars in losses each year.

- ❑ Many victims blame themselves for the loss of their life savings. The victim may believe they made a "bad business decision" not even realizing they have been a victim of a crime.
- ❑ Out of this blame, elderly victims can suffer from additional health problems from stress, depression, insomnia, and loss of appetite.
- ❑ Some elderly victims may feel shame for not being more savvy in recognizing "cons." making some victims reluctant to report the crime out of fear that family members may blame them for mismanagement of finances, and seek to terminate their financial independence.

A vast majority of the elderly population live on fixed incomes. The financial impact of a crime of fraud can be devastating to those living on fixed incomes. With little to no opportunities to earn back their retirement savings, elderly victims can lose their homes and even find themselves in poverty. For some elderly, the crime costs them more than money because some must give up their last vestige of independence when forced to move in with adult children or other family members out of financial necessity.

Violent Crimes. Statistically, elderly citizens are the least likely to be physically injured in the commission of a crime. However, when injuries are suffered, they tend to be more serious due to the normal physical vulnerability of the aging body. According to national statistics, the elderly are twice as likely as any other age group to be seriously injured and require hospitalizations when victimized. Elderly robbery victims are more likely than their younger counterparts to face multiple offenders and offenders armed with a gun (Bureau of Justice Statistics).

Most elderly homicide victims were killed during the commission of another felony (like robbery) and were more likely killed by strangers. By contrast, younger homicide victims are more likely to be killed by an acquaintance and to die during events such as a fight or family argument. The elderly are less apt to try to protect themselves than their younger counterparts. As part of the aging process, the elderly have an increased frailty that makes them more susceptible to physical injury and less able to recover from their injuries. Even slight resistance during a criminal incident may result in serious injuries for an older victim. For example, as a victim of a mugging, a younger person may experience only minor bruising or scraping as a result of being pushed to the ground. For the elderly victim, there is a marked increase in sustaining serious injuries, such as broken bones or concussions - injuries from which they may not fully recover.

Burglary. For many elderly, their world becomes the area immediate to their home as they begin to lose networks that have supported them throughout their life. They retire from jobs, friends and family members

begin to die, and outside leisure activities decrease due to increasing physical or mental limitations. Largely, this explains why the majority of elderly crime victims are victimized in or near their home. Burglary's impact on elderly victims include:

- The larceny of even a small amount of money means many elderly victims must go without food, medication, or other necessities, especially if the victim lives on a fixed income.
- Undue hardship may occur when paying for property damage resulting from a crime.
- Hardships are possible in finding extra money to replace stolen items. Even with insurance, there may be large deductibles and depreciation on the items, making the replacement of stolen items difficult, if not impossible.
- The loss of items deemed non-important to many younger people poses life-changing impact on the elderly. For example, the loss of a TV or radio can further restrict the elderly's outside communication and further isolate them from society.
- The sentimental loss of possessions stolen during a burglary is often far greater for the elderly. Their grief and trauma may be extreme.
- Elderly victims are more likely than any other burglary victims to want to relocate after the crime, but financial limitations may not allow such a move.

Summary. Elderly victims of crime are generally less able to cope with the personal and social problems resulting from crime, less able to manipulate existing services on their behalf, and less likely or able to challenge procedures and/or professionals who are unresponsive to their problems or need. Senior citizens are often treated by the criminal justice system with the same insensitivity they face elsewhere in society due to the prevalence of ageism.

A full range of victim services, including some specialized services, must be made available to older persons, or they may not be willing or able to seek or receive assistance. Providing assistance to elderly crime victims is critical in helping the elderly recover from criminal victimization, but doing so with sensitivity and respect for the victim's wishes or capabilities is far more important. Senior victims have the same basic needs common to all crime victims - to be treated with dignity, respect, compassion, and understanding.

(Note: This section on elderly crime victimization was adapted from materials obtained from the National Victim Center and National Victim Assistance Academy.)

III. PURPOSE of THE PROTOCOIS

The purpose of this protocol is **to begin the process of developing a responsive system to elderly crime**

victims. This protocol provides model guidelines and investigation procedures for responding to crimes against the elderly in communities across Illinois. Implementation of the model protocol will improve the overall coordinated response to elderly victims of crime while focusing on the safety of the victim and the accountability of offenders. The goals are:

- To increase awareness of crimes against the elderly.
- To emphasize abuse, neglect, and exploitation of the elderly as crimes.
- To improve communication and understanding of the differing roles of the criminal justice system, elder abuse agencies, and other appropriate organizations.
- To increase referrals between the criminal justice system, elder abuse agencies, aging network, medical community, banking/financial institutions and other appropriate organizations.
- To enhance techniques for the collection of evidence by law enforcement.
- To promote the use of other law enforcement protocols when elderly persons are victims of domestic violence or sexual assault.
- To improve the criminal justice system's understanding of the special needs of elderly victims of crime.

IV. Definitions

For the purpose of this protocol, elderly or older persons are defined as any person aged 60 or older. The age of sixty was chosen (versus age 65) because the criminal statutes in Illinois specific to elderly crime victims, including enhanced penalties, define elderly as any person over the age of sixty. In addition, the social support services available to the elderly, such as elder abuse intervention, home delivered meals, senior centers, and home care, use the age of sixty for their age-related eligibility. The crimes addressed in the protocol are listed in the following four categories:

- ✗ **Abuse and serious neglect** of the elderly.
- ✗ **Financial exploitation** by family members and others known to the elderly victim.
- ✗ **Organized financial scams, cons, and fraud** perpetrated against the elderly.
- ✗ **Other crimes** where the elderly are particularly vulnerable and/or where enhanced penalties for offenders exist in the law.

Below are working definitions of the four categories of crime. Below each definition is a list of crimes associated with each category. For a complete description of the crimes, please refer to Attachment A.

A. Abuse and Neglect

Abusive behavior is not usually limited to one form of abuse or neglect. Clear distinctions do not always

exist and they may overlap. Officers should be familiar with the signs, indicators, and evidence associated with the various forms of abuse and neglect.

1. Physical Abuse means causing the infliction of physical pain or injury to an older person.

Crimes associated with physical abuse:

- a. Assault (720 ILCS 5/12-1)
- b. Aggravated assault (720 ILCS 5/12-2)
- c. Battery (720 Sec. 5/12-3)
- d. Domestic Battery (720 ILCS 5/12-3.2)
- e. Aggravated Battery (720 ILCS 5/12-4)
- f. Aggravated battery of a senior citizen (720 ILCS 5/12-4.6)
- g. Intimidation (720 ILCS 5/12-6)
- h. Stalking (720 ILCS 5/12-7.3)
- i. Aggravated stalking (720 ILCS 5/12-7.4)
- j. Abuse and Gross Neglect of a Long Term Care Facility Resident (7200 ILCS 5/12-19)

2. Sexual Abuse means touching, fondling, or any other sexual activity with an older person when the older person is unable to understand, unwilling to consent, threatened, or physically forced.

Some experts in the field of elder abuse believe that many cases of sexual abuse go unreported because professionals fail to recognize or identify sexual abuse. They attribute this to the misperception that the elderly are not likely targets for sexual abuse. Consequently, officers may fail to investigate situations in which sexual abuse is likely to have occurred.

Crimes associated with sexual abuse:

- a. Sexual relations within families (720 ILCS 5/11 -1 I)
- b. Criminal Sexual Assault (720 Sec. 5/12-1 3)
- c. Aggravated Criminal Sexual Assault (720 ILCS 5/12-14)
- d. Criminal Sexual Abuse (720 ILCS 5/12-15)
- e. Aggravated Criminal Sexual Abuse (720 ILCS 5/12-16)

3. Emotional Abuse means verbal assaults, threats of abuse, harassment, or intimidation so as to compel the older person to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which the older person has a right to engage.

Emotional abuse is perhaps the most difficult to evaluate because it is the most subjective. What may cause great emotional harm to one person may have little effect on another person. This does not suggest that emotional abuse is less serious than other types of abuse. Constant threats,

intimidation, or humiliation can have a devastating impact on an older person's health and their attitude toward life. Sustained emotional abuse can lead to a diminished sense of self worth, depression, and fear. These are conditions which reduce the likelihood that the person will seek help. Emotional abuse often occurs in combination with othertypes of abuse, and must be addressed before successful intervention can occur.

Crimes associated with emotional abuse:

- a. Transmission of obscene messages prohibited (720 ILCS 135/1)
- b. Harassment by telephone (720 ILCS 135/1 -1)
- c. Intimidation (720 ILCS 5/12-6)

4. *Confinement* means restraining or isolating an older person for other than medical reasons.

Crimes associated with confinement:

- a. Unlawful restraint (720 ILCS 5/10-3)
- b. Aggravated stalking (720 ILCS 5/12-7,4)

5. *Passive Neglect* means the failure by a caregiver to provide an older person with the necessities of life including, but not limited to, food, clothing, shelter, or medical care, because of failure to understand the older person's needs, lack of awareness of services to help meet needs, or lack of capacity to care for the older person. Crimes associated with neglect - see the list under willful neglect.

6. *Willful Deprivation* means willfully denying assistance to an older person who requires medication, medical care, shelter, food, therapeutic device, or other physical assistance, thereby exposing that person to the risk of physical, mental, or emotional harm; except with regard to medical care or treatment when the older person has expressed an intent to forego such medical care or treatment.

Crimes associated with passive neglect and willful deprivation:

- a. Criminal Neglect of an Elderly or Disabled person (720 ILCS 5/12-21)
- b. Abuse and Gross Neglect of a Long Term Care Facility Resident (7200 ILCS 5/12-19)

B. Financial Exploitation

Financial Exploitation means the misuse or withholding of an older person's resources by another to the disadvantage of the elderly person and/or the profit or advantage of a person other than the older person.

The exploiter is known to the older person and fall within two offender types: caretakers and fiduciaries. Caretaker financial exploitation is undertaken by family members, "friends" or home care

workers, who use their association with the older person to gain access to funds that they then divert for their own use. Fiduciary exploitation is theft of an older person's funds that is accomplished by professionals - accountants, investment counselors, or lawyers - who use their positions of trust for their own personal benefit to the detriment of their elderly clients.

Financial exploitation may range from petty theft to much more complicated types of extortion. The exploiter may trick or coerce the older person into giving away money or property. Exploiters may, for example, convince a confused older person who is legally incapable of transacting business to grant them authority, over, or access to, their finances.

Crimes associated with financial exploitation:

- a. Theft (720 ILCS 5/16-1)
- b. Deceptive practices (720 ILCS 5/17-1)
- c. Forgery (720 ILCS 5/17-3)
- d. Credit Card Fraud (720 ILCS 250/3)
- e. Financial exploitation of an elderly or disabled person (720 ILCS 5/16-1.3)

C. Financial Fraud/Scams/Cons.

Scam artists, also known as confidence or con artists, engage in various frauds against the elderly. Scam artists are strangers to the older person. They conduct their swindles in person, through the mail, or over the phone.

There is a wide range of cons or scams committed against the elderly population. Similar to the definitions of abuse and neglect, clear distinctions do not always exist and may overlap. Officers should be familiar with the varying types of cons and scams and the groups of individuals who perpetrate these offenses.

There are generally four elements to a fraud, all of which must be present for the fraud to succeed. They are: (a) criminal intent; (b) disguise of criminal intent; (c) exploitation of human traits (con artists are experts at manipulating certain human traits that will influence people to part with their money); and (d) voluntary participation of the victim. Examples of the more common types of cons and scams include:

1. *Person to Person Confidence Schemes*, Home repair fraud, con games (pigeon drop, bank examiner, police impersonator, fake accident, ruse entry, faith healing, fortune telling, and utility refund).
2. *Mail Fraud*. Various types of consumer fraud (insurance fraud, investment fraud, travel clubs, mail order products, contest scams, work at home swindles, land sales), other business opportunities, and

medical fraud.

3. *Telemarketing Fraud.* Many of the "mail fraud"-type scams (I.e. using **the** telephone instead of the mail) as well as "900" number scams, sweepstakes, and charity scams.

A summary of crimes associated with fraud/cons/scams is located in Attachment A, pages 43 through 47.

D. Other Crimes

Crimes where the elderly are vulnerable to, fearful of, or likely to experience such as robbery, theft, burglary, mugging, purse snatching, etc. In addition, other **crimes include those where enhanced** penalties for offenders exist in the law.

Illinois State TRIAD

Model Guidelines for Illinois LAW ENFORCEMENT AGENCIES

The purpose of these model guidelines is to encourage a uniform approach for appropriate responses to crimes committed against an elderly person. The guidelines apply to offenses committed against persons aged sixty and older in Illinois. These guidelines demonstrate law enforcement's commitment to facilitate cooperation of the victim and to pursue a multi-agency approach in the reporting, investigating, and prosecuting crimes against the elderly.

I. Policy STATEMENT

It is the policy of _____ (Agency/Department) _____ to treat crimes against the elderly as high priority criminal behavior and to respond professionally and appropriately to reports of elderly victimization. In addition, it is the policy of _____ (Agency/Department) _____ that:

- A. Reports of abuse, serious neglect, and financial exploitation of older persons be fully investigated regardless of the relationship between the victim and the suspect(s).
- B. Expedient and full reporting be made to appropriate agencies on any case of confirmed or suspected abuse, neglect, and financial exploitation, including non-criminal acts, and organized scam/fraud.
It is the policy of this protocol that officers utilize the arrest powers granted by law when there is probable cause to do so.
- C. Immediate effective assistance and protection to elderly victims of crime be provided and appropriate actions against offenders be taken. Further, the implementation of these solutions should not result in increased risk to the older person and should not exacerbate the situation.
- D. Officers, in an effort to improve their response to the special needs of elderly crime victims, participate in a coordinated response with other appropriate agencies including criminal justice, elder abuse, social service, financial, and medical. This response includes coordinated investigation of abuse, neglect, and/or financial exploitation reports with elder abuse provider agencies.
- E. Officers treat all older persons with dignity and respect including recognizing an older person's right to self determination. Self determination is a competent person's right to make his or her decisions, including the right to privacy and to refuse well-intended interventions,
- F. Trained elderly service officers are available in the jurisdiction.

II. Policy COMPONENTS

In order to achieve an effective response to elderly crime victims, this law enforcement agency will utilize the model investigative procedures and promote the following goals and responsibilities:

A. Interagency Cooperation

Interagency cooperation is a goal that requires a teamwork approach. Coordination of law enforcement, prosecutors, elder abuse, banking, medical, court, and victim advocate personnel is necessary for a thorough response to a case involving an elderly crime victim.

B. Training

Successfully addressing many of the crimes perpetrated against the elderly is complex and requires specialized intervention techniques. Therefore, members of the department who respond to cases involving the abuse, serious neglect, financial exploitation, and/or fraud of an older person should go through specialized training. Training will include laws impacting elderly crime victims, victim and offender profiles, interviewing techniques, investigative strategies, evidence collection and joint investigation procedures with elder abuse program personnel. Like any profession, continuing education is critical for the development of expertise. Law enforcement professionals, veterans and recruits, will participate in ongoing education opportunities.

C. Communications

The communications personnel will solicit information from callers to determine the facts of the report, the condition of the victim, explain the law enforcement response and needs to the caller, and initiate the appropriate law enforcement response. Referral information will also be provided, when applicable.

D. Pre-Investigation

The officer will:

1. Know the prosecution standards set by the State's Attorneys office for accepting the differing elderly crime cases including criminal neglect, financial exploitation, and abuse and neglect of a long term care facility resident.
2. Maintain an ongoing collaborative commitment to working with all agencies and institutions responding to crimes against the elderly including the local elder abuse provider agency.
3. Understand the role of police work in responding to elderly crime and its victims.
4. Understand the role of the elder abuse caseworker in supporting victims of abuse, neglect, and financial exploitation.

E. Patrol Officer's Responsibility

The responding officer will;

1. Safe! and expeditiously respond to the complaint.
2. Ensure the safety of the victim and, if assistance is needed, notify the appropriate medical, law enforcement, and social service personnel. In cases of suspected abuse, neglect, and financial exploitation, submit a report to the elder abuse provider agency if a report has not been made by communications personnel.
3. Conduct a thorough preliminary investigation including; identify victim, suspects, and witnesses; identify and preserve the crime scene; obtain preliminary statements, and identify specific violations.
4. Tell the elderly victim what will be expected of her/him in the investigation, i.e., hospital, evidence collection, in-depth interview.
5. Respect and protect the confidentiality and the wishes of the elderly victim regarding the notification and participation of others throughout the investigation.
6. Complete the necessary reports, departmental notifications, and transfer information to the evidence collector and the continuing investigator, if another officer will assume those roles.

F. Evidence

The evidence collection technician or other officer who collects evidence will:

1. Determine available facts of the case by interviewing the appropriate responding and investigating officers).
2. Assess and preserve the crime scene as in any other crime.
3. Identify all possible evidence, depending on the nature of the crime, and conduct a thorough evidence search. Photograph and videotape, when appropriate.
4. Complete the necessary reports, including documents to transfer evidence, and transfer information to the continuing investigator

G. Continuing Investigation

1. Consult with the responding officer and any evidence collectors.
2. Develop an investigative strategy.
3. Conduct in-depth interviews with the victim, alleged offender(s), and witnesses,
4. Ensure that all evidence has been identified, collected, properly stored, and processed from the crime scene, the victim, the offender, and other sources (i.e., bank records, contracts, wills, etc.).
5. Ensure the victim has been referred to the elder abuse provider agency or other social service provider, as needed.
6. In cases of abuse, neglect, and exploitation, conduct a joint investigation of the allegations with

the elder abuse provider agency in the jurisdiction.

7. In cases of fraud or scams, share information with the surrounding areas, the State's Attorney and the Illinois Financial Crime Task Force.
8. Complete the necessary reports and transfer information to the State's Attorney's Office for prosecution.
9. Respect and protect the confidentiality and the wishes of the elderly victim regarding the notification and participation of others throughout the investigation.

H. Arrest

An officer will arrest without warrant when probable cause exists when a felony has been committed, a weapon has been used, a misdemeanor has been committed resulting in injury, and/or when the offense was committed in the presence of the officer. If the offender is also the older person's primary caregiver, alternative care arrangements must be made prior to removing the caregiver in all but the most extreme cases.

Illinois State TRIAD
Model INVESTIGATION PROCEDURES

I. RESPONSE PROCEDURES

A. **Communications**

1. Upon receiving a call involving an alleged crime against an elderly person, communications personnel should attempt to determine if conditions exist that constitute a police response and/or medical emergency. Communications personnel will obtain minimal response information, including:
 - a. Caller's identity, including telephone number.
 - b. Nature of the alleged crime
 - c. Location of the crime
 - d. Possible injuries
 - e. Identity of the victim and perpetrator
 - f. Current location of the victim
 - g. Weapon's description
 - h. Whether the perpetrator is still at the scene
2. The names and addresses should be cross-referenced if possible to establish any previously reported incidents from which any potential danger involved should be determined and relayed to responding unit,
3. The caller should be informed of the nature of the response (police, ambulance, etc.) as well as any special instructions (unlock door, turn on outside lights, etc.).
4. Communications personnel should make periodic checks on officers) at the scene.
5. Documentation of the call through normal procedures.

B. Determining Emergency Response, **Non-Emergency Reports, and/or Referrals**

- I. Emergency response to a crime against the elderly should be handled as a top priority, the closest available police unit should be assigned where possible. The following situations constitute an emergency:
 - a. Crime In-Progress. The caller is reporting an actual crime in progress.
 - b. Order of Protection Violation. An abuser is on the premises in violation of an order of protection.

- c. **Risk of Losing Money.** The older person is at risk of losing money or property if immediate action is not taken.
 - d. **Dangerous Investigation.** An elder abuse report has been received and the elder abuse caseworker has reason to believe that investigating the complaint will place the caseworker in danger.
 - e. **Mo Access.** A report of serious abuse, neglect, or exploitation has been received and the elder abuse caseworker cannot gain access to investigate because the alleged abuser prevents them from doing so.
2. **Non-Emergency** reports warrant prompt, but not immediate, response and include calls to check on the welfare of an elderly person, calls received from an elder abuse provider agency on one of their active cases where the agency is requesting assistance, such as a joint investigation (and the assistance does not fall under the categories listed above), and other non-emergency calls.
 3. Due to the 24 hour a day access the public has to its law enforcement agency, many persons call for **advice or information** regarding services that are available through other agencies. In these cases, once it has been determined that there is no need for police or emergency services, the caller should be provided information regarding services and the telephone number of the appropriate agency (see Attachment D). Reports of abuse, serious neglect, and financial exploitation, including those in nursing homes, should be viewed as crimes with law enforcement responsibility. Reports of these crimes should not, as a matter of course, be automatically referred to an elder abuse agency without law enforcement involvement (see Section VII).

C. Arrange for Appropriate Law Enforcement Response

1. Determine the appropriate response to the call - either emergency or non-emergency or referral.
2. The dispatch of officers should be consistent with that of other in-progress and nonemergency calls. Since emotional distress related to even non-emergency calls is often significant for the elderly victim, all calls are to be handled without unnecessary delay.
3. The names and addresses of the victim and perpetrator should be cross-referenced, if possible, to establish any previously reported incidents, from which any potential danger involved should be determined and transmitted to the responding officers.
4. Whenever a medical emergency is indicated or suspected, priority response by the EMS should be activated.
5. Provide referral information as needed.

D. Officer's Response

1. Officer(s) will safely and expeditiously respond to and investigate complaints of older persons who are victims of crimes. Calls involving physical violence, serious neglect, and person-to-person fraud should be regarded as potentially "high risk" calls for police officers and elderly victims, and should, if possible, utilize a back-up unit.
2. LEADS should be consulted to determine if the perpetrator has an outstanding warrant, and in the case of a domestic violence call, to determine whether an Order of Protection has been issued.
3. Officer(s) should advise the dispatcher of the status of the call as soon as possible after arrival and stay in contact with the dispatcher.

II. Officer's responsibility at the scene

A. Initial Response

1. Either as the first responder to arrive or when called to assist elder abuse caseworkers or EMT or others already on the scene, officers may need to conduct a forced entry. Entry should be immediate when required to save a life or property or when authorized by court order. When emergency entry is not indicated, officers should seek supervisory guidance.
2. Identify himself or herself by name and agency.
3. Identify the roles and relationships of the persons on the scene. Physically separate the parties involved, if the perpetrator is present, and ensure the safety of the older person. Obtain the name(s), probable location(s) and a description of the offender(s) if they are not present.
4. Identify and secure weapons within the constitutional bounds; seize any weapons used in commission of the crime.
5. Conduct a preliminary investigation, including taking, if practical, detailed and signed statements from the victim, witnesses, and offender. Preliminary statements are intended to guide the officer in the early stages of the investigation and can be verbal. If necessary, formal written statements can be obtained later in the investigation. Such statements are not required to make an arrest. It is important that statements address the entire incident. In cases of financial exploitation and/or fraud/scams/cons, obtain the estimated amount of loss, if known. Do not discount the victim's statement or complaint of a crime on the assumption that the older person is incapable or incompetent. By allowing the older person to provide information and using open-ended questions to obtain information, the officer will be given an opportunity to begin assessing the validity of the complaint and to determine if there are concerns regarding competency. Obtain the information from the victim and, if concerns about

competency are present, address competency issues at a later date with the officer's supervisor. A victim's inability or unwillingness to cooperate with the investigation should not be the sole reason to discount a complaint.

6. In cases involving abuse, neglect, and financial exploitation and after response has taken place, assess whether a report should also be made to the local elder abuse provider agency or other agency with responsibility for such cases. Reportable conditions, the manner and method for filing a report, and the anticipated response (including joint investigation procedures) are addressed in Section VII.
7. When the request for police presence on the scene of a case of suspected elder abuse, neglect, and/or exploitation is made by an elder abuse agency, the role of the officer may be significantly abbreviated.
 - a. Officers should not assume that the presence of personnel from these agencies negates the need for crime scene protection, evidence collection, interviewing witnesses, etc.
 - b. The officer should provide or make arrangements for a joint investigation with the roles of the elder abuse caseworker and officer jointly determined to be appropriate according to Section VII.
 - c. The officer should prepare a report documenting the incident, the names of the elder abuse personnel on the scene and action taken.

B. Assistance to the Victim.

If the officer determines that an older person has been a victim of a crime, the officer will take reasonable steps to prevent further criminal action, including, but not limited to:

1. Arresting the offending party, where appropriate.
2. Accompanying the victim into his or her residence to remove necessary personal items.
3. Providing the victim with the name, badge number, and phone number of the officer.
4. Describing available services.
5. If the older person has been abused, neglected, and/or financially exploited, providing a referral to the local elder abuse and neglect program.
6. If the older person has also been a victim of domestic violence, informing the victim of their rights under the Domestic Violence Act.
7. Advising the victim to seek medical attention. Medical care may be necessary even though injuries are not immediately apparent.
8. Transporting *or* arranging for transportation of the victim to a medical facility for the treatment of

injuries, or a nearby shelter or place of safety, or, after close of court business hours, providing or arranging for transportation for the victim to the nearest available circuit judge or associate judge so the victim may file for an emergency Order of Protection.

9. In arranging for emergency attendant care, the victim's wishes will be given utmost priority. If the victim is unable to express their wishes, the least restrictive alternative arrangement shall be provided, e.g., home-based care.
10. Seizing weapons used, and asking if a weapon was used in the past so the victim can seek a court order-requiring weapon's seizure.

C. Assistance to Elder Abuse Provider Agency

Upon occasion, a law enforcement agency may be requested to assist an elder abuse caseworker in responding to a report of elder abuse. For the safety of the older person and caseworker, it is important that the law enforcement respond as promptly as possible to these requests.

III. EvidENCE COLLECTION

A. Preserve the Crime Scene

1. The officer should process the crime scene and collect evidence as in any other crime. If the offense is particularly serious and warrants the assistance of investigators and evidence technicians, responding officers should secure the crime scene and await assistance.
2. Depending on the nature of the crime, possible evidence collection could include:
 - a. Weapons and other instruments used as weapons.
 - b. Clothing, bedding, and towels.
 - c. Biological evidence (body fluids, food samples).
 - d. Sexual aids, pornographic materials.
 - e. Living conditions/health and safety violations (kitchen, bedroom, bath).
 - f. Personal papers (letters, telephone/address books, bank and financial statements, checks (front and back) computer files, and legal documents) belonging to the victim and/or suspect.
3. In cases involving fraud/cons/scams, additional evidence to collect may include:
 - a. Any paperwork, financial statements, receipts, checks (front and back), brochures, mailing ads, etc.
 - b. Any claims of a company or agency affiliation, or other "confidence enhancers."
 - c. Any details regarding vehicles used, clothing worn, tools or business props carried.
 - d. Any re-contacts by the business/salesperson.

- e. Any telephone records.
4. Obtain color photographs or videotape, when appropriate. Photographs are underrated investigative tools. They can be essential in many of the crimes against the elderly because they provide documentation of injuries and the scene that cannot be refuted or denied in court at a later date. All evidence, injuries, or conditions, the appearance of which may change before evidence technicians arrive, should be immediately photographed and dated. The following should be photographed/videotaped as appropriate:
- a. Victim injuries (both new and old) and physical condition.
 - b. Weapons, restraints or instruments causing injuries.
 - c. Living conditions/health and safety hazards (kitchen, bedroom, bath).
 - d. In the case of a home repair fraud, work or partial work performed.

B. Obtain Identifying Information About the Elderly Victim.

This should include their age, physical condition, and/or disabilities since many criminal penalties are enhanced if the victim is older and/or disabled.

C. Seek Corroborating Information

Attempts should be made to corroborate all information relating to the allegations of wrongdoing. Steps that may provide corroboration include:

- 1. Statements of others involved and/or knowledgeable persons.
 - a. Many older persons receive services or have other social contacts on a regular basis.
 - b. Social workers, doctors, home care workers, lawyers, friends, family, neighbors, clergy, bankers and other service providers are likely to have information about what has happened in the past or about the older person's needs and mental capacity.
 - c. If the elder abuse agency has yet to be contacted, make contact to determine if there have been previous substantiated or unsubstantiated reports of abuse, neglect, or exploitation in the past
- 2. Information concerning opportunity and access to the victim.
- 3. Medical information including medical treatments and the name and phone number of any emergency medical personnel who dealt with the victim at the scene, if applicable. In some cases, the victim's medical history, especially emergency medical services and pharmaceutical records, may be essential in proving the cause of the injury, establishing a pattern of abuse, or eliminating potential defenses that attempt to explain away the injury.

4. Suspect's criminal and employment history (employment information is especially crucial in a financial exploitation case).
5. Legal records (power of attorney, will, living will, trusts, deeds for property, contracts, etc.).
6. Interview corroborating witnesses who saw the actual crime take place, who heard noises indicating a crime was taking place (for example, screams, cries, furniture being thrown, etc.), or who may have also been approached by the offender (for example, neighbors approached for the same home repair fraud).

D. Interview the Elderly Victim

1. The interview is to be done physically separate from the offender so that the victim can speak freely without being intimidated by the offender's presence. See Attachment C on techniques for interviewing victims.
2. Compensate for the inability of the victim to recall time of events. If the older person is having difficulty remembering when events occurred, ask them to relate the events to things that they do remember. For example, if an older person does not remember when their son arrived, ask what the older person was doing at the time. Questions like "were you watching television at the time?" if so, "do you remember what show you were watching?" or "was your home health aide here when your son arrived?" may yield the desired information.
3. Coordinate your interviews whenever possible. It may be difficult for elderly persons who have been victims of a crime to admit their vulnerability, especially if the offender is a relative or loved one, or when sexual abuse is alleged. Every effort should be made by law enforcement and others involved in investigating the allegations (such as the elder abuse agency) to coordinate efforts, thereby eliminating multiple stressful and embarrassing interviews. Although initially it may not be possible to coordinate the initial statement, every effort should be made in later stages of an investigation to coordinate interviews.
4. When the victim is not mentally or physically capable of providing information, officers may have to rely initially on statements from witnesses and the suspect, corroborating information, and evidence collected.
5. Prepare a written report and a taped or written statement as is customary in the jurisdiction.

E. Interview Suspects

1. Conduct a thorough interrogation of the suspect(s) using the appropriate investigative strategy.

2. It may be best to interview the suspect as late in the investigation as possible so that the suspect's defenses can be closed off with evidence and information collected. For example, if the officer can anticipate that the suspect will claim an injury was accidental, the officer may first want to get an expert medical opinion about the injury prior to the interview and show it to the suspect.
3. Explore possible explanations for allegations, suspicious activity, evidence (weapons, restraints, canceled checks found in the home), victim injuries and behavior consistent with abuse, and living conditions.
4. Determine if the suspect had the opportunity and access to the victim necessary to commit the alleged acts.
5. Whenever family members, caregivers, or other persons are determined to be suspects in the case, they must be advised of their constitutional rights before any further questioning takes place.
6. Prepare a written report and a taped or written statement as is customary in the jurisdiction.

IV. ARREST

1. An officer shall make an arrest without a warrant when probable cause exists under the following conditions:
 - a. When a felony has been committed.
 - b. When any weapon has been used to inflict injury or to intimidate or threaten the victim.
 - c. When a misdemeanor has been committed and the victim has visible signs of injury.
 - d. When an offense is committed in the presence of the officer.
 - e. When an officer has confirmed that a valid Order of Protection is in effect, that the offender has been served or has knowledge of the order, and a condition of the order has been violated by the offender.
2. In all other cases, the officer may arrest the offender depending on the seriousness of the crime, when it is necessary to preserve the peace, if the offender presents a danger to others, or if there is reason to believe the alleged offender will flee.
3. All possible charges should be listed on the arrest report.
4. The officer is prohibited from asking the victim whether or not there should be an arrest.
5. There is no requirement that a crime occur in the officer's presence, Consequently, lawful arrest may be and often shall be founded upon factors other than the officer's observations, including but not limited to physical injury property damage, signs of serious visible disruption and/or statements by the victim and/or others.
6. An officer shall not decline to arrest an offender because:

- a. Concerns that the victim may not be competent and, therefore, may not be a reliable witness.
 - b. The matter has been referred to the elder abuse and neglect program.
 - c. The victim has been unwilling or unable to participate in the complaint or arrest process; and
 - d. Verbal assurances have been made that the offense will not recur.
7. Law enforcement shall evaluate the likely effects and propriety of the arrest in abuse and neglect cases. When the cause for abuse is determined to result from correctable shortcomings of the caregiver, and arrest is not required according to the conditions outlined above or by local departmental policy, the preferred resolution may include oversight through by an elder abuse provider agency, education, supportive counseling, or supplemental support or services rather than arrest of the caregiver.
8. If an arrest is not made, the report should be forwarded to the State's Attorney for review and the victim/parties should be advised of this action. The victim should also be advised:
- a. That a complaint need not be signed at the time of an incident for further action by the State's Attorney;
 - b. Of his or her right to request that a criminal proceeding be initiated where appropriate, including specific times and places for meeting with the State's Attorney's office, a warrant officer, or other official in accordance with local procedure; and
 - c. Of the importance of preserving evidence, the types of evidence which could be collected at a later time, and how they can be used and by whom.
9. Other considerations with fraud and scams include:
- a. Identify all subjects involved in the fraud/scam including women and children;
 - b. Photograph each suspect with special attention to scars, tattoos, and other marks.
 - c. Keep the suspects separated;
 - d. For bail purposes, immediately inform the State's Attorneys office when you have a gypsy or traveler crime;
 - e. Identify the person making bail and inform the State's Attorneys office with the information; and
 - f. If the responding officer has not already done so, inform the:
 - i. Law enforcement jurisdictions in the surrounding area about the fraud/scam and suspects involved;
 - ii. State's Attorneys office, who may have a ~~case~~ pending in other areas of the county;
 - iii. Financial Crime Task Force coordinated through the Illinois State Police, who may assist in the investigation and place the information in their computerized fraud registry.

V. REPORTS

Every allegation of a crime against an elderly person should be documented. All phases and aspects of the investigation should appear in the police reports. These reports are crucial to achieving successful prosecutions and are the catalysts for assisting elderly victims of crimes. Every response from the criminal justice and elder abuse systems (including prosecutors, victim advocates, and elder abuse caseworkers) will flow from these written reports. Therefore, the report must include:

A. Victim's Account

Include the victim's detailed account including key quotes and the victim's statement as to the frequency or severity of prior alleged instances of abuse or other criminal acts. This is a critical aspect of the police report because frequently an elderly victim may not testify at trial for a variety of reasons. A detailed statement in the report can serve as a basis for the officer testifying in place of the victim, under the spontaneous excited utterances exclamation exception to the hearsay. Moreover, even when the elder victim does testify, they may become confused or fail to remember key aspects of their victimization. In these instances, police reports can oftentimes be used to refresh an elder's recollection or to provide a recorded statement of the elder's past recollection.

B. Suspect Information

1. Suspect's statements or refusal to speak.
2. Criminal history or background of the suspect to prove state of mind (documenting a defendant's prior criminal acts against the victim or other victims is important since it may be admissible in court to show the defendant's mental state or intent to harm the victim) and/or to influence the sentence (any information about the defendant, even if it cannot be used at trial, may be very valuable at sentencing).

C. Other Information

1. Name, address, telephone number, and **age of the** victim (and, if it is different, the current location of the victim).
2. Victim's condition and extent of injuries, neglect, or financial loss.
3. Name, address, telephone number and relationship to the victim of the person making the report.
4. Name, address, and telephone numbers of those persons responsible for the elderly victim's care.
5. Name, address, and telephone numbers of witnesses and any statements
6. Type of alleged crimes (including date(s), time(s), and location(s) of the crime(s))
7. Other corroborating information or observations in support of the allegations.

8. Physical evidence collected.
9. Names of agencies and personnel requested and on the scene.

VI. Joint investigations with elder abuse caseworkers

A. Where to Report Abuse, Neglect, or Exploitation Situations

1. There are two primary agencies with responsibility to receive and investigate allegations of abuse, neglect, and exploitation, depending on where the older person resides.
2. For those older persons residing in a community or domestic setting, the Illinois Department on Aging and its local elder abuse provider agencies are designated to receive reports. A domestic setting includes a residence, board and care home or assisted living facility. A report can be made to the Department's 800 number or to the local elder abuse provider agency. The telephone numbers are listed in Attachment G.
3. Any allegations of abuse or neglect related to residents of licensed long term care facilities (e.g. nursing homes) go to the Illinois Department of Public Health. The Department of Public Health receives reports 24 hours a day at !-800-252-4343.

K. Responsibility to Report - Law Enforcement to Elder Abuse Agencies

1. Law enforcement is to *refer* all allegations of abuse, neglect, or financial exploitation to the appropriate agency with statutory responsibility to receive and investigate such allegations. This does not relieve law enforcement's responsibility to also investigate the complaint to determine if criminal violations have occurred.
2. Under the Abused and Neglected Long Term Care Facility Residents Reporting Act (210 ILCS 30/1 - 16), law enforcement personnel are listed as mandated reporters and must report to Public Health when there is abuse or neglect suspected. The Elder Abuse and Neglect Act (320 ILCS 20/! - 12) only encourages that reports be made.
3. Even if the investigating officer does not believe the evidence rises to the level of a crime, a report must still be made to the appropriate elder abuse agency, The level of evidence required of the elder abuse agency to substantiate an allegation is generally less than that of a crime.

L. Responsibility to Report - Elder Abuse Agencies to Law Enforcement

- I. For domestic abuse, neglect, and exploitation allegations, the Illinois Department on Aging has specific procedures that must be followed by their local agencies to report to law enforcement. The procedures require that all serious abuse and neglect allegations be reported immediately to local law enforcement. All other abuse, neglect, or financial exploitation allegations may only be reported to

law enforcement by the elder abuse provider agency with the consent of the alleged victim.

2. The Department of Public Health will generally refer their cases to the Illinois State Police's Medicaid Fraud Unit for criminal investigation. Illinois State Police will then contact local law enforcement if they need assistance with their investigation. At times, Public Health will contact local law enforcement if there is need for emergency response.

1. Joint Investigations

1. In situations where it is suspected that a crime has been committed against an older person, the elder abuse provider and law enforcement agency will discuss whether a joint intervention is appropriate.

2. The primary purposes of a joint intervention are to provide protection to the victim and to utilize law enforcement options that may be available. Remember to be flexible. Each case is unique; therefore, the joint approach will vary depending on the circumstances of the situation.

3. To ensure a successful outcome, elder abuse and law enforcement agencies agree to work cooperatively and to develop intervention strategies in accordance with the respective roles of each agency. If a joint response is determined appropriate, the following guidelines should be followed:
 - i. The elder abuse caseworker and law enforcement officer will discuss the referral or incident information and determine what role each individual will play in the investigation. Information shared in accordance with confidentiality requirements of both agencies to facilitate the investigation. Decisions will be reached on who will be contacted (referral sources, victim, witness, alleged perpetrator), and where contacts will occur (home, office, police station, other protected setting).
 - ii. Law enforcement staff will determine whether a crime has been committed against the elderly person. They will preserve the crime scene (which may include photographing evidence, injuries or conditions), obtain preliminary statements of the victim and witnesses and identify specific violations.
 - iii. Elder abuse staff will assess the risks that are present for abuse, the elderly victim's ability to deal with the situation and willingness to accept assistance from others. Arrangements for care if medical or psychological problems exist which may affect the adult's ability to participate fully in the investigation process. Staff will also develop an intervention strategy that include the coordination of medical care, supportive counseling, services or other resources in the community, including the need for emergency relocation to a protected setting, and victim assistance for support through the criminal justice system.

- iv. Law enforcement and elder abuse agencies will coordinate victim and witness interviews whenever possible. Initially, it may not be possible for a law enforcement officer to have an elder abuse caseworker present when the officer conducts preliminary interviews, however, at the later stages of the investigation, every effort should be made to coordinate interviews.
- iv. Where an officer has reasonable cause to believe that an individual has committed a felony crime, the officer shall arrest the offender. ***The officer will not ask the victim whether or not there should be an arrest.*** There is no requirement that a crime (misdemeanor or felony) occur in the officer's presence. Consequently, a lawful arrest may be and often shall be founded upon factors other than the officers observations, including but not limited to physical injury, property damage, signs of serious visible disruption and/or statements by the victim or other witnesses.
- v. Both entities agree to share information concerning the referred person which is necessary to conduct investigations and deliver services, to the extent permitted by applicable laws and policies.

Criminal STATUTES RELATED TO Abuse

A. CONFINEMENT

1. **Unlawful restraint (720 ILCS 5/10-3):** A person commits the offense of unlawful restraint when he knowingly without legal authority detains another. Class 4 felony.
2. **Aggravated unlawful restraint (720 ILCS 5/10-3.1):** A person commits the offense of aggravated unlawful restraint when he knowingly without legal authority detains another while using a deadly weapon. Class 3 felony.
3. **Aggravated stalking (720 ILCS 5/12-7.4):** A person commits aggravated stalking when he or she, in conjunction with committing the offense of stalking, also does any of the following:
 - causes bodily harm to the victim;
 - confines** or restrains the victim; or
 - violates a temporary restraining order, an order of protection, or an injunction prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986.

Class 3 felony. A second or subsequent conviction for aggravated stalking is a Class 2 felony.

B. PHYSICAL ABUSE

- I. **Assault (720 ILCS 5/12-1):** A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery. Class C misdemeanor.

Note: In addition to any other sentence that **may be imposed, a court shall order** any person convicted of assault to perform community service for not less than 30 and not more than 120 hours, if such service is available in the jurisdiction. The community service requirement does not apply if the court imposes a sentence of incarceration.
- 2- **Aggravated assault (720 ILCS 5/12-2):** A person commits an aggravated assault, when, in committing an assault, he commits one of several aggravating factors, including **knowingly and without legal justification, commits an assault on a person 60 years of age or older.** If the only aggravating factor is the age, the aggravated assault is a Class A misdemeanor.
3. **Battery (720 ILCS 5/12-3):** A person commits **battery if he intentionally or** knowingly without legal justification and by any means, (1) causes bodily harm to an individual or (2)

makes physical contact of an insulting or provoking nature with an individual. Class A misdemeanor.

4. **Domestic Battery (720 ILCS 5/12-3.2):** A person commits Domestic Battery if he intentionally or knowingly without legal justification by any means:
 - (1) Causes bodily harm to any family or household member as defined in Subsection (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, as amended;
 - (2) Makes physical contact of an insulting or provoking nature with any family or household member as defined in subsection (3) of Section 112A-3 of the Code of Criminal Procedure of 1963, as amended.

First violation: Class A Misdemeanor.

Second and subsequent violation: Class 4 felony. In addition to any other sentencing alternatives, for any second conviction of violating this Section within 5 years of a previous conviction for violating this Section, the offender shall be mandatorily sentenced to a minimum of 48 consecutive hours of imprisonment. The imprisonment shall not be subject to suspension, nor shall the person be eligible for probation in order to reduce the sentence.

5. **Aggravated Battery (720 ILCS 5/12-4):** A person who, in committing a battery, intentionally or knowingly causes great bodily harm, or permanent disability or disfigurement commits aggravated battery; OR in committing a battery, a person commits aggravated battery if he or she . . . **Knowingly and without legal justification and by any means causes bodily harm to an individual of 60 years of age or older;** OR a person who administers to an individual or causes him to take, without his consent or by threat or deception, and for other than medical purposes, any intoxicating, poisonous, stupefying, narcotic or anesthetic substance commits aggravated battery; OR a person who knowingly gives to another person any food that contains any substance or object that is intended to cause physical injury if eaten, commits aggravated battery. Class 3 felony.
6. **Heinous battery (720 ILCS 5/12-4.1):** A person who, in committing a battery, knowingly causes severe and permanent disability or disfigurement by means of a caustic or flammable substance commits heinous battery. Class X felony.
7. **Tampering with food, drugs or cosmetics (720 ILCS 5/12-4.5):** Any person who knowingly puts any substance capable of causing death or great bodily harm to a human being into any food, drug or cosmetic offered for sale or consumption commits the offense of tampering with food, drugs or cosmetics. Class 2 felony.
8. **Aggravated battery of a senior citizen (720 ILCS 5/12-4.6):** A person who, in committing battery, intentionally or knowingly **causes great bodily harm** or permanent disability or disfigurement **to an individual of 60 years of age or older** commits aggravated battery of a senior citizen. Class 2 felony.
9. **Drug induced infliction of great bodily harm (720 ILCS 5/12-4.7):** Any person who

violates the Illinois Controlled Substances Act by unlawfully delivering a controlled substance to another commits the offense of drug induced infliction of great bodily harm if any person experiences great bodily harm or permanent disability as a result of the injection, inhalation or ingestion of any amount of that controlled substance. Class I felony.

10. Intimidation (**720 ILCS 5/12-6**): A person commits intimidation when, with intent to cause another to perform or to omit the performance of any act, he communicates to another, whether in person, by telephone or by mail, a threat to perform without lawful authority any of the following acts:

- (1) Inflict physical harm on the person threatened or any other person or on property;
or
- (2) Subject any person to physical confinement or restraint; or
- (3) Commit any criminal offense; or
- (4) Accuse any person of an offense; or
- (5) Expose any person to hatred, contempt or ridicule . . .

Intimidation is a Class 3 felony for which an offender may be sentenced to a term of imprisonment of not less than 2 years and not more than 10 years.

11. Stalking (**720 ILCS 5/12-7.3**): A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and:

at any time transmits a threat to that person of immediate or future bodily harm, sexual assault, confinement or restraint; or

places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint.

Class 4 felony. A second or subsequent conviction for stalking is a Class 3 felony.

Note: For the purpose of this Section, a defendant "places a person under surveillance" by remaining present outside the person's school, place of employment, vehicle, other place occupied by the person, or residence other than the residence of the defendant; and "follows another person" does not include a following within the residence of the defendant.

12. Aggravated stalking (**720 ILCS 5/12-7.4**): A person commits aggravated stalking when he or she, in conjunction with committing the offense of stalking, also does any of the following:

causes bodily harm to the victim;

confines or restrains the victim; or

violates a temporary restraining order, an order of protection, or an injunction prohibiting the behavior described in subsection (b)(1) of Section 214 of the Illinois Domestic Violence Act of 1986.

Class 3 felony. A second or subsequent conviction for aggravated stalking is a Class 2 felony.

C. SEXUAL ABUSE

1. **Sexual relations within families (720 ILCS 5/11-II):** A person commits sexual relations within families if he or she commits an act of sexual penetration and knows that he or she is related to the other person as follows: (i) Brother or sister, either of the whole blood or the half blood; or (ii) Father or mother, when the child, regardless of legitimacy and regardless of whether the child was of the whole blood or half-blood or was adopted, was 18 years of age or over when the act was committed; or (iii) Stepfather or stepmother, when the stepchild was 18 years of age or over when the act was committed. Class 3 felony.
2. **Solicitation of a sexual act (720 ILCS 5/11 -14.1):** Any person who offers a person not his or her spouse any money, property, or anything of value to perform any act of sexual penetration, touching or fondling of the sex organs of one person by another person for the purpose of sexual arousal or gratification, commits the offense of solicitation of asexual act. Class B misdemeanor.
3. **Definitions (720 ILCS 5/12-12):** For the purposes of Sections 12-13 through 12-18 of this Code, the terms used in these Sections shall have the following meanings ascribed to them:
 - (a) "Bodily harm" means physical harm, and includes, but is not limited to, sexually transmitted disease, pregnancy and impotence.
 - (b) "Family member" means a parent, grandparent, or child, whether by whole blood, half-blood or adoption and includes a step-grand parent, step-parent or step-child.
 - (c) "Force or threat of force" means the use of force or violence, or the threat of force or violence, including but not limited to the following situations: (1) when the accused threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believed that the accused had the ability to execute that threat; or (2) when the accused has overcome the victim by use of superior strength or size, physical restraint or physical confinement.
 - (d) "Sexual conduct" means any intentional or knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus or breast of the victim or the accused ... for the purpose of sexual gratification or arousal of the victim or the accused.
 - (e) "Sexual penetration" means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person,

or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

4. **Criminal Sexual Assault (720 ILCS 5/12-13):** The accused commits criminal sexual assault if he or she commits an act of sexual penetration by the use of force or threat of force; or commits an act of sexual penetration and **the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent.** . . . Class I felony. A second or subsequent conviction may be a Class X felony.
5. **Aggravated Criminal Sexual Assault (720 ILCS 5/12-14):** The accused commits aggravated criminal sexual assault if he or she commits criminal sexual assault and . . . **the victim was 60 years of age or over when the offense was committed;** or the accused commits an act of sexual penetration with a victim who was an institutionalized severely or profoundly mentally retarded person at the time the act was committed. Class X felony.
6. **Criminal Sexual Abuse (720 ILCS 5/12-15):** The accused commits criminal sexual abuse if he or she . . . commits an act of sexual conduct and **the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent.** Class A misdemeanor. A second or subsequent conviction may be a Class 2 felony.
- 7- **Aggravated Criminal Sexual Abuse (720 ILCS 5/12-16):** The accused commits aggravated criminal sexual abuse if he or she commits criminal sexual abuse . . . **and the victim was 60 years of age or over when the offense was committed;** or the accused commits an act of sexual conduct with a victim who was an institutionalized severely or profoundly mentally retarded person at the time the act was committed. Class 2 felony.

D. EMOTIONAL ABUSE

- 1, **Transmission of obscene messages prohibited (720 ILCS 135/1):** Any person in this State who sends messages or uses language or terms which are obscene, lewd or immoral with the intent to offend by means of or while using a telephone or telegraph facilities, equipment or wires of any person, firm or corporation engaged in the transmission of news or messages between states or within the State of Illinois is guilty of a Class B misdemeanor. A second or third violation is a Class A misdemeanor. A fourth or subsequent violation is a Class 4 felony. The use of language or terms which are obscene, lewd or immoral is prima facie evidence of the intent to offend.
2. **Harassment by telephone (720 ILCS 135/1-I):** is use of telephone communication for any of the following purposes:
 - (1) Making any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent with an intent to offend; 'or
 - (2) Making a telephone call, whether or not conversation ensues, with intent to abuse,

threaten or harass any person at the called number; or

- (3) Making or causing the telephone of another repeatedly to ring, with intent to harass any person at the called number; or
- (4) Making repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or
- (5) Knowingly permitting any telephone under one's control to be used for any of the purposes mentioned herein.

Note: All telephone companies in this State shall cooperate with law enforcement agencies in using their facilities and personnel to detect and prevent violations of this Act. Class B misdemeanor. A second or third violation is a Class A misdemeanor. A fourth or subsequent violation is a Class 4 felony.

- 3. **Intimidation (720 ILCS 5/12-6):** A person commits intimidation when, with intent to cause another to perform or to omit the performance of any act, he communicates to another, whether in person, by telephone or by mail, a threat to perform without lawful authority any of the following acts:

- (1) Inflict physical harm on the person threatened or any other person or on property; or
- (2) Subject any person to physical confinement or restraint; or
- (3) Commit any criminal offense; or
- (4) Accuse any person of an offense; or
- (5) Expose any person to hatred, contempt or ridicule . . .

Intimidation is a Class 3 felony for which an offender may be sentenced to a term of imprisonment of not less than 2 years and not more than 10 years.

E. FINANCIAL EXPLOITATION

- I. Financial exploitation of elderly persons includes acts which constitute property crimes regardless of the age of the victim. This would include:
 - a. **Theft (720 ILCS 5/16-1)**
 - b. **Deceptive practices (720 ILCS 5/17-1)**
 - c. **Forgery (720 ILCS 5/17-3)**
- 2. When a "threat" (720 ILCS 5/15-5) is an element of the crime, the elder is being subjected

to emotional abuse.

3. **Financial exploitation of an elderly or disabled person (720 ILCS 5/16-1.3):**

a. A person commits the offense of financial exploitation of an **elderly** person when:

- (1) he stands in a position of trust and confidence with the elderly or disabled person and
- (2) he knowingly and by deception or intimidation obtains control over the elderly or disabled person's property
- (3) with the intent to permanently deprive the elderly or disabled person of the use, benefit, or possession of his property.

b. Financial exploitation of an elderly or disabled person is a:

Class 4 felony if value of property is \$300 or less,

Class 3 felony if value of property is more than \$300 but less than \$5,000

Class 2 felony if value of property is \$5,000 or more but less than \$ 100,000

Class 1 felony if the value of the property is \$100,000 or more.

c. Definitions for purposes of this Statute:

- (1) "Elderly person" means a person 60 years of age or older who is suffering from a disease or infirmity associated with advanced age manifested by physical, mental or emotional dysfunctioning to the extent that such person is incapable of avoiding or preventing the commission of the offense.
- (2) "Disabled person" means a person who suffers from a permanent physical or mental impairment resulting from disease, injury, functional disorder or congenital condition which renders such person incapable of avoiding or preventing the commission of the offense.
- (3) "Intimidation" means the communication to an elderly or disabled person that he shall be deprived of food and nutrition, shelter, prescribed medication or medical care and treatment.
- (4) "Deception" means, in addition to its meaning as defined in Section 15-4 of this Code, a misrepresentation or concealment of material fact relating to the terms of a contract or agreement entered into with the elderly or disabled person or to the existing or pre-existing condition of any of the property involved in such contract or agreement; or the use or employment of any misrepresentation, false pretense or false promise in

order to induce, encourage or solicit the elderly or disabled person to enter into a contract or agreement.

- d. For purposes of this Section, a person stands in a position of trust and confidence with an elderly or disabled person when he
 - (1) is a parent, spouse, adult child or other relative by blood or marriage of the elderly or disabled person,
 - (2) is a joint tenant or tenant in common with the elderly or disabled person or
 - (3) has a legal or fiduciary relationship with the elderly or disabled person.
- e. Nothing in this Section shall be construed to limit the remedies available to the victim under the Illinois Domestic Violence Act.
- f. Nothing in this Section shall be construed to impose criminal liability on a person who has made a good faith effort to assist the elderly or disabled person in the management of his property, but through no fault of his own has been unable to provide such assistance.
- g. It shall not be a defense to financial exploitation of an elderly or disabled person that the accused *reasonably* believed that the victim was not an elderly or disabled person.

Note: Civil Liability. A person who is charged by information or indictment with the offense of financial exploitation of an elderly or disabled person and who fails or refuses to return the victim's property within 60 days following a written demand from the victim or the victim's legal representative shall be liable to the victim or to the estate of the victim in damages of treble the amount of the value of the property obtained, plus reasonable attorney fees and court costs. The burden of proof that the defendant unlawfully obtained the victim's property shall be by a preponderance of the evidence. This subsection shall be operative whether or not the defendant has been convicted of the offense.

F. Serious Neglect / Willful Deprivation

- I. **Criminal Neglect of an Elderly or Disabled person (720 ILCS 5/12-2 I):** A person commits the offense of criminal neglect of an **elderly** or disabled person when he is a **caregiver** and he knowingly:
 - a. performs acts which cause the elderly or disabled person's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate; or
 - b. fails to perform acts which he knows or reasonably should know are necessary to maintain or preserve the life or health of the elderly or disabled person and such failure causes the elderly or disabled person's life to be endangered, health to be

injured or pre-existing physical or mental condition to deteriorate; or

c. abandons the elderly or disabled person.

2. Class 3 felony.

3. Definitions for Criminal Neglect statute:

a. "Elderly person" means a person 60 years **of age or older** who is suffering from a disease or infirmity associated with advanced age and manifested by physical, mental or emotional dysfunctioning to the extent that such person is incapable of adequately providing for his own health and personal care.

b. "Disabled person" means a person who suffers from a permanent physical or mental impairment, resulting from disease, injury, functional disorder or congenital condition which renders such person incapable of adequately providing for his own health and personal care.

c. "Caregiver" means a person who has a **duty** to provide for an elderly or disabled person's health and personal care, at such person's place of residence, including but not limited to, food and nutrition, shelter, hygiene, prescribed medication and medical care and treatment.

"Caregiver" shall include:

- (1) parent
spouse
adult child
other relative by blood or marriage who resides with or resides in the same building with and regularly visits the elderly or disabled person knows or reasonably should know of such person's physical or mental impairment and knows or reasonably should know that such person is unable to adequately provide for his own health and personal care, or
- (2) person who is employed by the elderly or disabled person or by another to reside with or regularly visit the elderly or disabled person and provide for such person's health and personal care;
- (3) person who has agreed for consideration to reside with or regularly visit the elderly or disabled person and provide for such person's health and personal care;
- (4) a person who has been appointed by a private or public agency or by a court of competent jurisdiction to provide for the elderly or disabled person's health and personal care.

Note: "Caregiver" does not include a long-term care facility licensed or certified' under the Nursing Home Care Act or any administrative, medical or other

personnel of such a facility, or a health care provider who is licensed under the Medical Practice Act and renders care in the ordinary course of his profession.

- d. "Abandon" means to desert or knowingly forsake an elderly or disabled person under circumstances in which a reasonable person would continue to provide care and custody.
- 4. No criminal liability shall be imposed on a person who has made a good faith effort to provide for the health and personal care of an elderly or disabled person, but through no fault of his own has been unable to provide such care.
- 5. Nothing in this statute prohibits a person from providing treatment by spiritual means through prayer alone and care consistent therewith in lieu of medical care and treatment in accordance with the tenets and practices of any church or religious denomination of which the elderly or disabled person is a member.
- 6. It is not a defense that the accused reasonably believed that the victim was not an elderly or disabled person.

G. OTHER CRIMINAL STATUTES WHICH MAY APPLY IN ANY TYPE OF ABUSE OR NEGLECT

- I. **Violation of an order of protection (720 ILCS 5/12-30):** A person commits violation of an order of protection if he or she:
 - a. Commits an act which was prohibited by a court or fails to commit an act which was ordered by a court in violation of a remedy in a valid order of protection authorized under paragraphs (1), (2), (3), or (14) of subsection (b) of Section 214 of the Illinois Domestic Violence Act of 1986, or any other remedy when the act constitutes a crime against the protected parties as the term protected parties is defined in Section 112A-4 of the Code of Criminal Procedure of 1963.
 - b. Such violation occurs after the offender has been served notice of the contents of the order, pursuant to the Illinois Domestic Violence Act, or otherwise has acquired actual knowledge of the contents of the order.
 - c. For purposes of this Section, an "order of protection" may have been issued by any circuit or associate judge in the State of Illinois in a criminal or civil proceeding.
 - d. Violation of an order of protection is a Class A misdemeanor. A second or subsequent offense is a Class 4 felony. The court shall impose a minimum penalty of 24 hours imprisonment for Defendant's second or subsequent violation of any order of protection; unless the court explicitly finds that an increased penalty or such period of imprisonment would be manifestly unjust. In addition to any other penalties, the court may order the Defendant to pay a fine as authorized under Section 5-9-1 of the Unified Code of Corrections or to make restitution to the victim under Section 5-5-6 of the Unified Code of Corrections.

2. **Resisting or obstructing a peace officer or correctional institution employee (720 ILCS 5/31-1):** A person who knowingly resists or obstructs the performance by one known to the person to be a peace officer or correctional institution employee of any authorized act within his official capacity commits a Class A misdemeanor.
3. **Violation of bail bond (720 ILCS 5/32-10):**... Whoever, having been admitted to bail for appearance before any court of this State, while charged with a criminal offense in which the **victim is a family or household member** as defined in Article 1 12A of the Code of Criminal Procedure of 1963, knowingly violates a condition of that release as set forth in Section 110-10, subsection (d) of the Code of Criminal Procedure of 1963, commits a Class A misdemeanor. . .
4. **Victim Impact Statement (725 ILCS 120/6):** In any case where a Defendant has been convicted of a violent crime or a juvenile has been adjudicated a delinquent for a violent crime and the victim of the violent crime is present in the courtroom at the time of the sentencing or the disposition hearing, the victim upon his or her request shall have the right to address the court regarding the impact which the Defendant's criminal conduct has had upon the victim. If the victim chooses to exercise this right, the impact statement must have been prepared in writing in conjunction with the Office of the State's Attorney prior to the initial hearing or sentencing, before it can be presented orally or in writing at the sentencing hearing. The court shall consider any statements made by the victim, along with all other appropriate factors in determining the sentence of the Defendant or disposition of such juvenile. The crime victim has the right to prepare a victim impact statement and present it to the Office of the State's Attorney at any time during the proceedings.

H. CRIMINAL STATUTES APPLICABLE IN THE EVENT OF DEATH

- I. **First Degree Murder (720 ILCS 5/9-1):** A person who kills an individual without lawful justification commits first degree murder if he either intends to kill or do great bodily harm to that individual or another, or knows that such acts will cause death to that individual or another; or he knows that such acts create a strong probability of death or great bodily harm to that individual or another; or he is attempting or committing a forcible felony other than second degree murder.

A defendant who at the time of the offense has attained the age of 18 and who has been found guilty of first degree murder may be sentenced to death if.....themurdered individual was killed in the course of another felony if:

(a) the murdered individual was actually killed by the defendant or received physical injuries personally inflicted by the defendant substantially contemporaneously with physical injuries caused by one or more persons for whose conduct the defendant is legally accountable under Section 5-2 of this Code and the physical injuries inflicted by either the defendant or the other person or persons for whose conduct he is legally accountable caused the death of the murdered individual; and

(b) in performing the acts which caused the death of the murdered individual or which resulted in physical injuries personally inflicted by the defendant on the murdered individual,

the defendant acted with the intent to kill the murdered individual or with the knowledge that his acts created a strong probability of death or great bodily harm to the murdered individual or another; and

(c) the other felony was one of the following: armed robbery, armed violence, robbery, predatory criminal sexual assault of a child, **aggravated criminal sexual assault**, aggravated kidnapping, aggravated vehicular hijacking, forcible detention, arson, aggravated arson, **aggravated stalking**, burglary, residential burglary, home invasion, calculated criminal drug conspiracy, or at attempt to commit any of the felonies listed in this section.

2. **Second degree murder (720 ILCS 5/9-2):** A person commits the offense of second degree murder when he commits the offense of first degree murder and either of the following mitigating factors are present:

(a) At the time of the killing he is acting under a sudden and intense passion resulting from serious provocation by the individual killed or another whom the offender endeavors to kill, but he negligently or accidentally causes the death of the individual killed; or

(b) At the time of the killing he believes the circumstances to be such that, if they existed, would justify or exonerate the killing under the principles stated in Article 7 of this Code, but his belief is unreasonable.

Serious provocation is conduct sufficient to excite an intense passion in a reasonable person. Class 1 felony.

3. **Involuntary manslaughter and reckless homicide (720 ILCS 5/9-3):** A person who unintentionally kills an individual without lawful justification commits involuntary manslaughter if his acts whether lawful or unlawful which cause the death are such as are likely to cause death or great bodily harm to some individual, and he performs them recklessly, except in cases in which the cause of the death consists of the driving of a motor vehicle, in which case the person commits reckless homicide. Involuntary manslaughter and reckless homicide are Class 3 felonies.
4. **Attempt (720 ILCS 5/8-4):** A person commits an attempt when, with intent to commit a specific offense, he does any act which constitutes a substantial step toward the commission of that offense. It is not a defense that due to a misapprehension of the circumstances it would have been impossible to commit the offense attempted.

STATUTES RELATED TO CONSUMER FRAUD Type Abuses

A. HOME REPAIR

- I. **Home Repair Fraud (815 ILCS 515/1 -515/4)** A person commits home repair fraud when he knowingly enters into an oral or written agreement for home repair and knowingly: misrepresents a material fact, creates an impression which is false, or promises performance he does not intend to perform; uses any deception to encourage a person to enter into an agreement; enters into an unconscionable (total payment called for is more than four times the fair market value for services) agreement or requires payment of at least \$4,000.00 and there is an unreasonable difference between value and amount charged; or fails to comply with law related to assumed names and misrepresents or conceals his name, business name, or address.

A person commits home repair fraud when he knowingly: damages property with intent to contract for home repair; or misrepresents himself as an employee of a governmental unit or a public utility to induce an agreement for home repair.

Rebuttable presumption of intent or knowledge: After no performance or no substantial performance, he fails or refuses to return payments made by victim and he:

- fails to respond to written demand within 10 days;
- fails to notify victim in writing of change of business name or address prior to completing of home repair;
- makes false statements to excuse non-performance;
- uses deception to get consent to modify agreement;
- fails to employ qualified personnel;
- fails to order or purchase materials needed for job;
- fails to comply with governmental regs/codes.

Depending upon the specific violation and the amount involved, home repair fraud may be a Class A misdemeanor, a Class 4 felony, or a Class 3 felony.

2. **Aggravated Home Repair Fraud (815 ILCS 515/5):** A person commits aggravated home repair fraud **when he** commits home **repair fraud against a person 60 years of age or older** or a disabled person. Depending upon the specific violation and the amount involved, aggravated home repair fraud is a Class 4, Class 3, or Class 2 felony. It is no defense to have reasonably believed the victim to be less than 60 years of age.

B. CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES

1. **Chain referral sales and pyramid sales (815 ILCS 505/2A)** are unlawful. In a chain arrangement, a buyer is induced to purchase on seller's promise that if buyer furnishes seller names of prospective buyers, seller will contact and if a sale results, rebate or commission to referring buyer.
2. **Failure to comply with the "right to cancel" (815 ILCS 505/2B):** In a sale of merchandise involving \$25 or more, where seller is physically present at consumer's residence, the consumer may avoid the contract by notifying the seller within 3 full business days and returning in original condition, any merchandise. Seller, at the time the sale is made, must furnish a complete receipt or contract, and a NOTICE which complies with the statutory requirements. It is unlawful to fail to complete copies of the Notice of Cancellation fully before giving to the consumer, to include any waiver of the right to cancel, to fail to inform orally of the right to cancel, to misrepresent the right, to use any undue influence to interfere with the right, to fail to honor a valid notice of cancellation, to assign indebtedness to third party prior to fifth business day following contract signing, or fail to notify whether seller will repossess or abandon shipped goods.
3. **Disclosure of legal name and business address or mail order or catalog businesses (815 ILCS 505/2B.1):** It is unlawful for such business utilizing a post office box to fail to disclose legal name and complete street address where business is actually conducted.
4. **Selling Consumer Records (815 ILCS 505/2B.2):** is an unlawful practice if these records can be obtained by the consumer from governmental agencies or credit reporting agencies. It is allowed if the seller includes notice per statute of availability of records from other sources.
5. **Failure to return downpayment if credit application rejected (815 ILCS 505/2C)** is unlawful.
6. **Negotiable instruments in connection with installment sales - defenses against assignee (815 ILCS 505/2D)** are not barred unless notice to buyer given per statute.
7. **Repeated violations of certain acts (815 ILCS 505/2E):** Any person regularly engaged in the business of providing merchandise to consumers or in making loans to consumers, and who has committed in any calendar year 3 or more violations of "Consumer Finance Act", "Consumer Installment Loan Act", "Retail Installment Sales Act¹¹", "Motor Vehicle Retail Installment Sales Act", "An Act to revise the law in relation to the rate of interest, . . .", or "An Act to promote the welfare of wage-earners by regulating the assignment of wages . . ." is guilty of an unlawful practice. The person can also be prosecuted under the Acts specified.
8. **Persons held in civil or criminal proceedings for violation of law regarding credit (815 ILCS 505/2F):** can be prosecuted under the statute violated and be found guilty of an unlawful practice under this act.
9. **Resale of repossessed goods to person not a good faith purchaser (815 ILCS**

505/2G) in order to increase a deficiency recovery is guilty of unlawful practice.

10. **Collection of obligation from spouse of obligor (815 ILCS 505/2H)** is an unlawful practice and a Class C misdemeanor unless the spouse was a cosigner on the obligation or the obligation is in default of at least 30 days or the goods and services furnished were necessities for which the spouse would be liable to pay under law.
11. **Collection of obligation by communication with employer (815 ILCS 505/21)** unless default for at least 30 days and at least 5 days notice is unlawful. Violation is an unlawful practice and person is liable in civil action for damages.
12. **Advertisement of price and periodic payments (815 ILCS 505/2J)** by seller must set forth clearly the cash sale price, downpayment, and details of payments, with annual percentage rate. Failure is an unlawful practice. Compliance with federal Truth in Lending Act is compliance herein.
13. **Coupons issued by retail seller or motor vehicle dealer (815 ILCS 505/2J.1):** must state discount or fact that featured price is a "sale" price.
14. **Automatic price look ups (815 ILCS 505/2J.2)** must have conspicuously displayed price information. Violation is unlawful practice.
15. **Advertisement of credit rates (815 ILCS 505/2K)** as "bank rates" by a business not a bank, bank association or trust company authorized to do business is an unlawful practice.
16. **Retail sale of motor vehicle (815 ILCS 505/2L):** It is an unlawful practice if the dealer fails to assume liability for a portion of the cost of repair, depending on the **age** of the vehicle, of Power Train components in compliance with statute, unless there is notice that the vehicle is sold as is with no warranty as to mechanical condition.
17. **Advertisement of factory authorized service (815 ILCS 505/2M):** **No** one can so advertise unless authorized and able to supply proof on demand. A violation is an unlawful practice and a Class C misdemeanor.
18. **Non-English language translation of contract (815 ILCS 505/2N):** "fo fail to provide a written agreement in the same language as the negotiations is an unlawful practice.
19. **Offers of free prizes, gifts or gratuities (818 ILCS 505/2P):** must clearly set out the conditions.
20. **Home improvement or repair businesses (815 ILCS 505/2Q):** No person or entity engaged in business of making home improvements or repairs shall operate under a name other than real names of individuals, an assumed corporate name (Business Corporation Act of 1983 or Assumed Business Name Act) or as subcontractor of business in compliance. First violation may be treated as both an unlawful practice and a Class A misdemeanor; second or subsequent violation is a Class 4 felony. In conformity with Home Repair Fraud Act, notice must be given to consumer within 10 days of any change in business name or address, and failure to commence or complete work shall result in return of down payment

and any additional payments within 10 days after proper demand.

21. **Telephone directory advertisements sales (815 ILCS 505/2R):** It is unlawful for person who sells to fail to disclose number of directories in previous edition, name of publisher, and affiliation with telecommunications carrier.
22. **Cosigners of obligations are entitled to notice prior to a report of adverse information (815 ILCS 505/2S)** to consumer reporting agency. Violation is an unlawful practice and there is liability for damage up to \$250 plus attorney's fees.
23. **Conditions of making loans secured by an interest in real estate (815 ILCS 505/2JT):** Consumer who will use his residential real property as security cannot be required to use a particular company for title insurance or to pay for title policy other than commitment at request of seller, borrower, mortgagor or other debtor. Lender can require title insurance.
24. **Misrepresentation of the capabilities of a device for detecting and measuring radon or radon progeny (815 ILCS 505/2U)** is an unlawful practice and a Class A misdemeanor.
25. **Misrepresentation of results of test to detect or measure radon or radon progeny (815 ILCS 505/2V)** is an unlawful practice and a Class A misdemeanor.
26. **Performance of act or service to reduce radon without objective basis to believe act or service performed will reduce radon or radon progeny as represented (815 ILCS 505/2W)** if for compensation is an unlawful practice and a Class A misdemeanor. Person injured from violation may maintain action in circuit court for damages and be awarded 3 times actual damages and cost/fees.
27. **Simulated checks used as advertising (815 ILCS 505/2X):** It is unlawful practice to promote or advertise using a simulated check unless it has printed upon front and back "This is not a check." A sample or specimen instrument may be distributed if clearly marked as non-negotiable sample.
28. **Misrepresentation of effect of use of gasohol on motor vehicle warranties (815 ILCS 505/2Y)** is an unlawful practice and violator may be fined from \$501 to \$ 1000.
29. **Violation of other Acts (815 ILCS 505/2Z)** including the Dance Studio Act, the Physical Fitness Services Act, the Hearing Instrument Consumer Protection Act, the Illinois Union Label Act, the Job Referral and Job Listing Services Consumer Protection Act, the Travel Promotion Consumer Protection Act, the Credit Services Organizations Act, the Automatic Telephone Dialers Act, the Pay-Per-Call Services Consumer Protection Act, or the Telephone Solicitations Act, is an unlawful practice.
30. **Immigration services (815 ILCS 505/2AA):** Immigration assistance services for compensation are regulated by this Act, which lists the services which may be performed and the notices required to be given to consumers. The Attorney General may issue rules. Violation of provisions is a Class A misdemeanor for first offense and a Class 3 felony for

second or subsequent offense within 5 years of previous conviction for same offense. Civil penalties may be pursued by the Attorney General or any State's Attorney for injunctive relief and a penalty up to \$50,000.

31. Assembly, drafting, execution and funding of living trust documents by corporations or nonlawyers **(815 ILCS 505/2BB)** is an unlawful act and a Class A misdemeanor for the first violation; Class 4 felony for subsequent convictions. This is not applicable to institutions with certificate of authority for exercise of trust powers under the Illinois Corporate Fiduciary Act, or to institution under Illinois Credit Union Act.
32. Wholesale advertising (815 **ILCS** 505/2CC): It is an unlawful practice to represent that a person is a wholesaler or offers to sell or sells at wholesale to the public unless the person makes a substantial number of sales for resale in ordinary course of business and can substantiate savings as compared to identical merchandise offered for sale by retailers in the trade area.
33. Telecommunication service provider selection **(815 ILCS 505/2DD)**: No telecommunication carrier shall change a subscriber's selection of the provider of telecommunications service except in accordance with the rules of the FCC or ICC. Violation is an unlawful practice.

ELDER Abuse AND NEGLECT ACT:

RESPONSIBILITY TO INTERVENE IN ELDER ABUSE AND NEGLECT

The Illinois Legislature has given the Department on Aging of the State of Illinois the responsibility to investigate and attempt to remedy acts of abuse or neglect of elderly persons who live in domestic settings. The Elder Abuse and Neglect Act defines those responsibilities. Because the same acts which constitute abuse and neglect often rise to the level of a criminal violation, law enforcement and aging both will be involved. Abuse and neglect of older persons in long term care institutions does not fall within this act.

A. Definitions within the Elder Abuse and Neglect Act (320 ILCS 20/2)

- I. *Abuse* means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources.

The Department on Aging has more specifically defined abuse through its Standards and Procedures as:

- a. *Physical Abuse* means causing the infliction of physical pain or injury to an older person.
 - b. *Sexual Abuse* means touching, fondling, sexual threats, sexually inappropriate remarks, or any other sexual activity with an older person when the older person is unable to understand, unwilling to consent, threatened, or physically forced to engage in sexual behavior.
 - c. *Emotional Abuse* means verbal assaults, threats of maltreatment, harassment, or intimidation so as to compel the older person to engage in conduct from which he has a right to abstain or to refrain from conduct in which the older person has a right to engage.
 - d. *Confinement* means restraining or isolating an older person for other than medical reasons.
 - e. *Financial Exploitation* means the misuse or withholding of an older person's resources by another person to the disadvantage of the elderly person and/or the profit or advantage of a person other than the older person.
2. *Neglect* means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or medical care.

The Department on Aging has more specifically defined neglect through its Standards and Procedures as:

- a. *Passive Neglect* means a caregiver's failure to provide, or willful withholding, the necessities of life including, but not limited to, food, clothing, shelter, or medical

care. (A *caregiver* means any person who assumes responsibility for providing assistance such as banking, shopping, meal preparation, personal care or housekeeping on a periodic and regular basis, to an older person. A caregiver may or may not live with the elder and may be paid or not paid.)

b. *Willful Deprivation* means willfully denying a person who, because of age, health, or disability, requires medication, medical care, shelter, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental, or emotional harm, except if the elder has expressed an intent to forego such medical care.

3. *Eligible adult* means a person 60 years of age or older who resides in a domestic setting and is abused or neglected by another individual.

4. *Domestic setting* means a residence where the elder lives, alone or with others, but is not a licensed facility or institution.

B. Service Provision: Unlike the Department of Children and Family Services in cases of child abuse or neglect, the Department on Aging does not directly provide services to elder abuse victims. The Department on Aging contracts with **local public or non-profit** agencies designated by regional administrative agencies throughout the state to assist elders who are abused or neglected.

C. The Elder Abuse Provider Agencies (320 ILCS 20/3):

1. receive reports of alleged or suspected abuse or neglect

2. **conduct** face-to-face **assessments** of reported cases, including a visit to the residence of the elder

3. **make a determination** as to whether reports are substantiated

4. **develop** a service **care plan** and make referrals for support services

5. **provide** case work and follow-up services on substantiated cases.

D. Reports of Abuse and Neglect (320 ILCS 20/4): may be made by any person to the designated agency, the regional administrative agency or the Department on Aging. If the reporter believes it is in the best interest of the elder for the report to be made, the reporter is **immune** from criminal or civil liability or professional disciplinary action. The identity of a reporter may be disclosed only with the written consent of the reporter or by court order.

Reporting is voluntary, even for professional groups who are mandated to report suspected child abuse or neglect.

Some situations of suspected or alleged abuse or neglect fall within the Illinois Domestic Violence Act of 1986, and law enforcement officers shall continue to report incidents of alleged abuse pursuant to that Act, regardless of any requirements of the Elder Abuse and Neglect Act.

E. Access to records (320ILCS 20/8): All records concerning reports of elder abuse and neglect and all records generated as a result of such reports are **confidential**, but may be accessed by:

1. A law enforcement agency investigating known or suspected elder abuse or neglect
2. A grand jury that determines access to such records is necessary in the conduct of its official business
3. A coroner or medical examiner who has reason to believe an elder has died as a result of abuse or neglect.

Note: Access to such records does not include access to the identity of the person or persons making a report of alleged abuse or neglect as contained in such records.

F. Elder's right to consent (320 ILCS 20/9): The eligible adult has the right to consent to services or to refuse to accept services. The presumption is that the elder is capable of informed consent. If it appears the elder lacks capacity to consent, the agency may seek appointment of a temporary guardian for purposes of consent.

If an emergency exists, and it is reasonable to believe the elder is an eligible adult and lacks capacity to consent, the agency may seek a court order to authorize an assessment of a report and to provide necessary services. These services may include relief under the Illinois Domestic Violence Act of 1986.

Abuse and neglected long term care facility residents reporting ACT:

RESPONSIBILITY TO INTERVENE IN ELDER ABUSE AND NEGLECT IN A LONG TERM CARE SETTING

The Illinois Legislature has given the Illinois Department of Public Health the responsibility of protecting residents in long term care facilities from abuse and neglect. The Long Term Care Facility Act defines those responsibilities. Law enforcement involvement is indicated in the act.

A. Definitions within the Abused and Neglected Long Term Care Facility Residents Reporting Act (210 ILCS 30/3)

1. *Resident* means a person residing in and receiving personal care from a long term care facility, or residing in a mental health facility or developmental disability facility..
2. *Long term care facility* has the same meaning ascribed to such term in the Nursing Home Care Act, except that the term as used in this Act shall include any mental health facility or developmental disability facility as defined in the Mental Health and Developmental Disabilities Code.

Note: The Nursing Home Care Act (210 ILCS 45/1 -113) defines *long-term care facility* as a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code, or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for 3 or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act. Long-term *care facility* does not include:

(r) a home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;

(ii) a hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;

(iii) any facility for child care as defined in the Child Care Act of 1969:

(iv) any community living facility as defined in the Community Living Facilities Licensing Act;

(v) any community residential alternative as defined in the Community Residential Alternatives Licensing Act;

(vi) any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

(vii) any facility licensed by the Department of Mental Health and Developmental Disabilities as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act; or

(viii) any supportive residence licensed under the Supportive Residences Licensing Act.

3. *Abuse* means any physical injury, sexual abuse or mental injury inflicted on a resident other than by accidental means.
4. *Neglect* means a failure in a long term care facility to provide adequate medical or personal care or maintenance, which failure results in physical *or* mental injury to a resident or in the deterioration of a resident's physical or mental condition.
5. *Protective services* means services provided to a resident who has been abused or neglected, which may include, but are not limited to alternative temporary institutional placement, nursing care, counseling, other social services provided at the nursing home where the resident resides or at some other facility, personal care and such protective services of voluntary agencies as are available.

- B. Persons required to report **(210 ILCS 30/4)**: Any long term care facility administrator, agent or employee or any physician. . . law enforcement officer... having reasonable cause to believe any resident with whom they have direct contact has been subjected to abuse or neglect shall immediately report or cause a report to be made to the Department of Public Health.

In addition to the above persons required to report suspected resident abuse and neglect, any other person may make a report to the Department or to any law enforcement officer, if such person has reasonable cause to suspect a resident has been abused or neglected.

This Section also applies to residents whose death occurs from suspected abuse or neglect before being found or brought to a hospital.

A person required to make reports or cause reports to be made under this Section who fails to comply with the requirements of this Section is guilty of a Class A misdemeanor.

- C. Photographs and x-rays of abuse and neglect report subjects **(210 ILCS 30/5)**: Any person required to investigate cases of suspected resident abuse or neglect may take or cause to be taken, at the resident's expense color photographs and x-rays of the area of trauma on the resident who is the subject of a report.
- D. Reports, investigations, cooperation with law enforcement agencies **(210 ILCS 30/6)**: All reports of suspected abuse or neglect made under this Act shall be made immediately by

telephone to the Department's central register established under Section 14 on the single, State-wide, toll-free telephone number established under Section 13, or in person or by telephone through the nearest Department office.

Reports shall also be made in writing deposited in the U.S. mail, postage prepaid, within 24 hours after having reasonable cause to believe that the condition of the resident resulted from abuse or neglect. Such reports may in addition be made to the **local law enforcement agency** in the same manner. However, in the event a report is made to the local law enforcement agency, the reporter also shall immediately so inform the Department of Public Health. The Department shall initiate an investigation of each report of resident abuse and neglect under this Act, whether oral or written, as provided for in Section 3-702 of the Nursing Home Care Act, except that reports of abuse which indicate that a resident's life or safety is in imminent danger shall be investigated within 24 hours of such report. The Department may delegate to **law enforcement officials** or other public agencies the duty to perform such investigations.

When requested by the Director of the Guardianship and Advocacy Commission or the agency designated by the Governor pursuant to the Protection and Advocacy for Developmentally Disabled Persons Act, the Department, the Department of Mental Health and Developmental Disabilities and the Department of State Police shall make available a copy of the final investigative report regarding investigations conducted by their respective agencies on incidents of suspected abuse or neglect of residents of institutions under the jurisdiction of the Department of Mental Health and Developmental Disabilities. Such final investigative report shall not contain witness statements, investigation notes, draft summaries, results of lie detector tests, investigative files or other raw data which was used to compile the final investigative report. Specifically, the final investigative report of the Department of State Police shall mean the Director's final transmittal letter.

With respect to investigations of reported resident abuse or neglect, the Department of Public Health shall effect with appropriate law enforcement agencies formal agreements concerning methods and procedures for the conduct of investigations into the criminal histories of any administrator, staff assistant or employee of the nursing home or other person responsible for the residents care, as well as for other residents in the nursing home who may be in a position to abuse, neglect or exploit the patient. Pursuant to the formal agreements entered into with appropriate **law enforcement** agencies, the Department may request information with respect to whether the person or persons set forth in this paragraph have ever been charged with a crime and if so, the disposition of those charges. Unless the criminal histories of the subjects involved crimes of violence or resident abuse or neglect, the Department shall be entitled only to information limited in scope to charges of their dispositions. In cases where prior crimes of violence or resident abuse or neglect are involved, a more detailed report can be made available to authorized representatives of the Department, pursuant to the agreements entered into with appropriate law enforcement agencies.

The Department shall effect formal agreements with appropriate **law enforcement agencies** in the various counties and communities to encourage cooperation and coordination in the handling of resident abuse or neglect cases pursuant to this Act.

- E. **Report requirements (210 ILCS 30/7):** The report required by this Act shall include the name of the resident, the name and address of the nursing home at which the resident resides; the resident's age; the nature of the resident's condition including any evidence of previous injuries or disabilities, and any other information that the reporter believes might be helpful in establishing the

cause of such abuse or neglect and the identity of the person believed to have caused such abuse or neglect.

- F. Immunity from liability (210ILCS 30/8):** Any person, institution or agency, participating in good faith in the making of a report, or in the investigation of such a report or in the taking of photographs or x-rays under this Act shall have immunity from liability, civil, criminal, or otherwise, that might result by reason of such actions.
- G. Testimony in judicial proceedings-Evidentiary exclusions (210 ILCS 30/9):** Any person who makes a report or who investigates a report under this Act shall testify fully in any judicial proceeding resulting from such report, as to any evidence of abuse or neglect or the cause thereof. No evidence shall be excluded by reason of any privilege relating to the communications between the alleged perpetrator of abuse or neglect, or the resident subject of the report under this Act and the person making or investigating the report.
- H. Criminal acts discovered in the course of investigation-Referral (210 ILCS 30/10):** If during the investigation of a report made pursuant to this Act, the Department obtains information indicating possible criminal acts the Department shall refer the matter to the appropriate **law enforcement agency** or agencies for further investigation or prosecution. The Department shall make the entire file of its investigation available to the appropriate law enforcement agencies.

ELDER Abuse And DOMESTIC VIOLENCE

Because perpetrators of elder abuse and neglect are often in domestic relationships with older persons who are victimized, the *Illinois Domestic Violence Act of 1986* (750 ILCS 60/101 et al) and the Code of Criminal Procedure of 1963, Domestic Violence Order of Protection (725 ILCS 5/11 1-8) will be utilized as in those cases of domestic violence involving younger victims. Law enforcement officers should observe the domestic violence protocols already established.

There are some provisions **of the *Illinois Domestic Violence Act of 1986* which specifically apply to older adults. These** are summarized:

A. Definitions unique to elderly victims or disabled adults (750 ILCS 60/103)

1. *Adult with disabilities* means an elder adult with disabilities or a high-risk adult with disabilities. This does not mean that the elder has to have been adjudicated a disabled person under the *Illinois Probate Act*.

If the elder objects, however, no court proceeding may be initiated or continued on behalf of him or her unless his or her legal guardian consents.

Note: While the elder may fall within the category of a protected person because of advanced age or disabilities, the elder is able to refuse assistance like any other adult. If there is a question of capacity for informed consent and appears to be serious imminent risk, action under the Mental Health Code or the Probate Act may be needed, and if no immediate risk, refer to the Elder Abuse Provider Agency for follow-up.

2. *Elder adult with disabilities* means an adult who because of advanced age is unable to take action to protect himself or herself from abuse by a family or household member.
3. *High-risk adult with disabilities* includes any person aged 18 or over whose physical or mental disability impairs his or her ability to seek protection from abuse, neglect or exploitation.
4. *Exploitation* means illegal use of the assets or resources of a high-risk adult with disabilities and includes, but is not limited, to misappropriation:
 - by undue influence
 - by breach of a fiduciary relationship
 - by fraud
 - by deception or extortion
5. *Neglect* means failure to exercise the degree of care toward a high-risk adult with disabilities which a reasonable person would exercise under the circumstances, for example:
 - a. failure to protect from abuse
 - b. repeated, careless imposition of unreasonable confinement

- c. failure to provide necessities of food, shelter, personal hygiene, medical or rehabilitative care needed
- d. failure to protect from health and safety hazards

Note: The provisions related to care do not impose a requirement that someone give assistance to an elder who refuses it, unless a court orders, and there is no new affirmative duty created to provide support to an elder.

- 6. *Willful deprivation* means wilfully denying a person who because of age, health or disability requires medication, medical care, shelter, food, etc., and thereby exposing the person to risk of harm.

Note: The provisions related to care do not impose a requirement that someone give assistance to an elder who refuses it, unless a court orders, and there is no new affirmative duty created to provide support to an elder. An elder may have expressed through a durable power of attorney an intent to forego medical care or treatment.

- B. Any person may file a petition for an Order of Protection on behalf of an adult who has been abused by a family or household member and who, because of age, health, disability, or inaccessibility, cannot file the petition or on behalf of a high-risk adult with disabilities who has been abused, neglected, or exploited by a family or household member. (750 ILCS 60/201)

- C. Access of high-risk adults (750 ILCS 60/20 I.I)

- 1. If access is obstructed

The Domestic Violence Act prevents anyone from obstructing access of a high-risk adult with disabilities to any agency authorized to file a petition for an Order of Protection for the purpose of a private visit relating to legal rights, entitlements, claims and services under the Act.

If someone obstructs or impedes access, law enforcement agencies shall assist in petitioning for a search warrant or an ex parte injunctive order upon showing of **probable cause** to believe:

the high-risk adult with disabilities is the subject of abuse, neglect, or exploitation which constitutes a criminal offense, or

that any other criminal offense is occurring which affects the interests or welfare of the high-risk adult with disabilities.

- 2. If law enforcement officer personally observes that it appears probable that delay of entry to obtain a warrant or order would cause the high-risk adult with disabilities to be in **imminent danger of death or** great bodily harm, entry may be made by the officer after an announcement of the officer's authority and purpose.

- D. Guardianship

1. It is important to note that an elder may be the subject of a guardianship proceeding under the *Probate Act of 1975*, and a petition for an Order of Protection could be filed in that proceeding. (750 ILCS 60/202)
 2. If the high-risk adult with disabilities has a guardian who is named as a respondent in a petition for an Order of Protection, the court shall appoint a temporary substitute guardian. (755 ILCS 5/1 I a-10.1)
- E. Officers should record any statements of the elder, since there is a **hearsay exception** in actions for orders of protection on behalf of a high risk adult with disabilities. The following evidence will be admitted whether or not the elder is available as a witness: a statement relating to a startling event made spontaneously and under the contemporaneous or continuing stress of excitement caused by the event. (750 ILCS 60/213.1)
- F. The requirements and remedies for Orders of Protection for elders is the same as for all other petitioners under the Domestic Violence Act.
- G. Immunity from prosecution:
- A good faith reporter of abuse of a person 60 years or older is immune from criminal or civil liability if providing information to appropriate law enforcement agency, assisting in the investigation, assisting in providing services ordered under an Order of Protection. **(750 ILCS 60/225)**

Some provisions of the Illinois Domestic Violence Act specifically pertain to law enforcement officers. The most important provisions are summarized:

- A. **Arrest without warrant (750 ILCS 60/301):** Any law enforcement officer may make an arrest without a warrant if the officer has probable cause to believe that the person has committed or is committing any crime, including but not limited to violation of an order of protection, under Section 12-30 of the Criminal Code, even if the crime was not committed in **the** presence of the officer. The officer may verify the existence of an order of protection by telephone or radio communication with his or her law enforcement agency or by referring to the copy of the order provided by the petitioner or respondent.
- B. **Assistance by law enforcement officers (750 ILCS 60/304):** Whenever a law enforcement officer has reason to believe that a person has been abused, neglected or exploited by a family or household member, the officer shall immediately use all reasonable means to prevent further abuse, neglect, or exploitation, including:
- 1) Arresting the abusing party where appropriate;
 - (2) Seizing and taking inventory of weapons if there is probable cause to believe that particular weapons were used to commit the abuse (subject to constitutional limitations);
 - (3) Accompanying the victim to his or her place of residence for a reasonable period of time to remove necessary personal belongings and possessions;
 - (4) Offering the victim immediate and adequate information (written in appropriate

language, Braille, or sign language), which shall include a summary of the procedures and relief available to victims of abuse under subsection (c) of Section 217 and the officer's name and badge number;

(5) Providing the victim with one referral to an accessible service agency;

(6) Advising the victim about seeking medical attention and preserving evidence (specifically including photographs of injury or damage and damaged clothing or other property);

(7) Providing or arranging transportation for the victim to a medical facility for treatment of injuries or to a nearby place of shelter. After the close of court business hours, providing or arranging transportation for the victim to the nearest available circuit judge or associate judge so the victim may file a petition for an emergency order of protection under subsection (c) of Section 217.

Whenever an officer does not exercise arrest powers or otherwise initiate criminal proceedings, the officer shall:

1) Make a police report of the investigation of any bona fide allegation of an incident of abuse, neglect, or exploitation and the disposition of the investigation;

(2) Inform the victim of the victim's right to request that a criminal proceeding be initiated where appropriate, including specific times and places for meeting with the State's Attorney's office, a warrant officer, or other official in accordance with local procedure; and

(3) Advise the victim of the importance of seeking medical attention and preserving evidence (photographs of injury or damage and damaged clothing or other property).

NOTE: Except as provided by Section 24-C of the Criminal Code or under a court order, any weapon seized under subsection (a)(2) shall be returned forthwith to the person from whom it was seized when it is no longer needed for evidentiary purposes.

INDICATORS OF Abuse, neglect, AND/OR FINANCIAL EXPLOITATION

A. Physical Abuse

I. Indicators of Physical Abuse. Elderly persons may frequently exhibit signs of falls and accidents. These same signs may be indicators of physical abuse, especially when victims or suspects attempt to conceal their presence or offer inconsistent or irrational excuses for injuries. Investigators should consider the presence of any injury in their assessment of physical abuse cases. The following Injuries are examples of indicators of abuse and should be considered together with an examination of the abuser/victim relationship, other evidence and observations.

X Bruises or welts. Older adults bruise more easily than younger people, and they are also at risk for a variety of injuries that lead to bruising. For this reason, it is often difficult to distinguish between bruises and other injuries that are accidental and those that were inflicted. There are, however, certain types of bruising or situations which may suggest abuse. These include:

- ❖ **Bilateral bruises** are rare!/ accidental. These are bruises on both sides of the body - for example, on the top of both shoulders, both sides of the face or inside both thighs. Bilateral bruising to the arms may indicate that the older person has been shaken, grabbed or restrained. Bilateral bruising of the inner thighs may indicate rape or other types of sexual abuse.
- ❖ **"Wrap around" bruises** are also unlikely to be accidental. These are bruises which encircle the older person's arms, legs, or torso. They indicate that the older person has been physically restrained.

The shape and location of bruising can tell you a lot. Sometimes pattern marks are visible that resemble the instrument used to cause the bruising. Rope or strap marks, for example, may indicate inappropriate restraint.

X Burns.

- ❖ Caused by cigarettes, caustics, hot objects.
- ❖ Friction from ropes, chains or other physical restraints.

X Other injuries or conditions.

- ❖ Fractures, sprains, lacerations, and abrasions.
- ❖ Injuries caused by biting, cutting, poking, punching, whipping or twisting of limbs.
- ❖ Disorientation, stupor or other effects of deliberate over-medication.

2. Behavioral Indicators - the Victim

Indications of abuse are not limited to visible wounds or injuries. The behavior of victims can *reflect*, traits often associated with elder abuse. Presence of these indicators is not conclusive and should serve only to direct the focus of further investigation.

- ✗ Easily frightened, agitated, or trembling.
- ✗ Exhibiting denial.
- ✗ Hesitant to talk openly.
- ✗ Implausible explanations concerning injuries. Often when victims have injuries related to abuse, they are explained as the result of accidents. By carefully assessing the type of injury and the explanation, it is possible to discover inconsistencies. For example, a bruise which is explained as the result of an accidental fall may be on a part of the body which is unlikely to sustain impact in a fall.
- ✗ Confusion or disorientation.

3. Behavioral Indicators - the Suspect

Individually, none of these indicators constitutes evidence of wrongdoing on the part of a caregiver. However, when one or more indicators *are* present along with injuries, further investigation is warranted.

- ✗ Concealment of victim's injuries. For example, the victim is brought to a different facility for treatment each time there is an injury.
- ✗ Inconsistent explanation for victim's injuries. Sometimes several family members provide different explanations of how injuries were sustained.
- ✗ History of making threats.
- ✗ History of substance or alcohol abuse.
- ✗ Victim of abuse as a child.
- ✗ Dependent *on* victim's income or assets.

B. Sexual Abuse

I. Indicators of Sexual Abuse

Physical indicators of sexual elder abuse should direct investigators to search for other corroborating evidence. Many of these indicators cannot be identified without physical examination. Indicators may include the following:

- ✗ Torn, stained or bloody underclothing.
- ✗ Genital and/or anal infection, irritation, discharges or bleeding, itching, bruising or pain.

- ✗ Painful urination and/or defecation.
- ✗ Difficulty walking or sitting due to anal or genital pain.
- ✗ Psychosomatic pain such as stomach or headaches.
- ✗ Physical evidence of pornography or prostitution.
- ✗ Sexually transmitted disease.

2. Behavioral Indicators - The Victim

The embarrassment of recounting forced sexual activity often results in the refusal of an elderly victim to report and describe the crime. The following indicators are often present in (but not limited to) cases of sexual abuse.

- ✗ Inappropriate, unusual or aggressive behavior or curiosity about sexual matters.
- ✗ Self-exposure.
- ✗ Intense fear reaction to an individual or people in general.
- ✗ Extreme upset when assisted with bathing or other physical caregiving.
- ✗ Direct or coded disclosure of sexual abuse.
- ✗ Fecal soiling.
- ✗ Depression or poor self-esteem.
- ✗ Eating disturbances (overeating and under-eating).
- ✗ Fears, phobias, compulsive behavior.
- ✗ Self-destructive behaviors such as head-banging or self-biting.
- ✗ Regressive behavior such as bedwetting or thumbsucking.
- ✗ Sleep disorders (nightmares, fear of sleep, excessive sleeping),

3. Behavioral Indicators - The Suspect

An individual who is sexually abusing or exploiting an elderly person may take extreme measures to ensure the activity is concealed. This may be exhibited through such behaviors as the following:

- ✗ Overprotectiveness, dominance, hostility toward others.
- ✗ Inappropriate sex-role relationship between victim and suspect.
- ✗ Social isolation.

C. Emotional Abuse

I. Indicators of Emotional Abuse

There is usually a lack of physical evidence in cases of emotional abuse. Emotional abuse, however, is highly correlated with other types of abuse and officers should look for emotional abuse when other abuses are found.

2. Behavioral Indicators - The Victim

Although the presence of the following indicators may be reflections of abuse, they may also be symptoms of emotional disorders, dementia, or other conditions associated with aging. Officers must be mindful of this, but be careful not to arbitrarily attribute these symptoms to aging rather than possible abuse.

- ✗ Sleep, eating, or speech disorders.
- ✗ Depression.
- ✗ Helplessness or hopelessness.
- ✗ Isolation.
- ✗ Agitation or anger.
- ✗ Confusion.
- ✗ Low self-esteem.
- ✗ Seeks attention and affection.

3. Behavioral Indicators - The Suspect

Emotional abuse of an elderly person may stem from the suspect's own low self-esteem and his or her unrealistic expectations of the victim. The suspect may exhibit irrational behavior and:

- ✗ Threaten the victim.
- ✗ Call the victim names.
- ✗ Speak poorly of the victim.
- ✗ Treat the victim as an infant.
- ✗ Use restrictive treatment
- ✗ Ignore the victim and his or her needs.

D. Neglect

I. Indicators of Neglect

It is common to observe a combination of indicators when neglect exists. Neglect may be found in varying degrees and may be recent or long-standing. Care should be taken to photograph and document evidence that will likely change with better care.

Note that there are non-criminal influences (poverty, family background/culture, ignorance) that may contribute to the appearance of neglect which are consistent with normal living conditions of that elderly person's family. The need for action should be guided by the likelihood of harm to the elderly person if allowed to remain in those conditions. Indicators of neglect include but are not limited to:

- ✗ Absence of necessities, including food, water, heat.
- ✗ Decubiti (bedsores), skin disorders or rashes.
- ✗ Untreated injuries or medical disorders.
- ✗ Signs of health and medication mismanagement - e.g., empty or unmarked bottles or outdated prescriptions, the absence of needed dentures, eyeglasses, hearing aids, walker, wheelchair, or braces.
- ✗ Poor personal hygiene including soiled clothing, matted or lice-infested hair, odors or presence of feces, dirty nails/skin.
- ✗ Hunger, malnutrition, dehydration (as evidenced by low urinary output, dry, fragile skin, dry, soar mouth, apathy, or lack of energy and mental confusion).
- ✗ Pallor, sunken eyes or cheeks.
- ✗ Inadequate supply of food.
- ✗ Lack of clean bedding and clothing.
- ✗ Unsanitary or unsafe living conditions.

2. Behavioral Indicators - The Victim

Continued neglect may lead to a number of the following behavioral characteristics. Existence of these conditions justify further investigation, but in themselves they do not constitute adequate evidence of neglect.

- ✗ Non-responsiveness or helplessness.
- ✗ Inability to care for self.
- ✗ Dependent behavior.
- ✗ Detachment.

3. Behavioral Indicators - The Suspect

When neglect results from the action or lack of action of a caregiver, one or more of the following characteristics may be present:

- ✗ Substance abuse.
- ✗ Mental illness.
- ✗ Development disability.
- ✗ Hostility towards others.
- ✗ Apathetic/passive/detached/unresponsive.
- ✗ Depression or irrational behavior.
- ✗ Lack of concern for the victim.
- ✗ Lack of necessary skills.

E. Financial Exploitation

I. Indicators of Financial Exploitation

As some elderly persons experience decreased mobility (loss of driving ability and personal mobility), they become dependent on others to assist with and sometimes take over financial matters. Although this increases the opportunity for abusive practices, caregivers and others (lawyers, bankers, friends, etc.) may have a need to conduct legitimate financial business or handle funds in order to provide care to the person. The presence of the following activities may justify closer examination.

- ✗ A caregiver overly interested in the victim's financial situation; or with no means of support.
- ✗ Unusual volume of banking activity or activity inconsistent with the victim's ability (i.e. use of ATM by a bedridden victim). Bank statements and canceled checks no longer come to the older person's home. Suspicious signatures on checks or other documents.
- ✗ Implausible explanations given about the elderly person's finances by the elder or the caregiver. The older person is unaware of or does not understand financial arrangements that have been supposedly made on the elder's behalf.
- ✗ Excessive concern by another over the cost of caring for the victim or a reluctance to pay bills.
- ✗ Recent acquaintances expressing interest in the older person's finances, promising to provide assistance or care, or ingratiating themselves to the older person.
- ✗ Recent changes in ownership of the victim's property.
- ✗ A will or other legal document (i.e. power of attorney) drawn by an older person who did not understand it when signing.
- ✗ Placement, care or possessions of victim inconsistent with the victim's estate: missing items (silver, art, jewelry).
- ✗ Caregiver isolates the elder from friends and other family.

- ✗ Non-payment of bills leading to eviction notices or threats to discontinue utilities.
- ✗ The quality of the elder's care is inconsistent with the size of the estate.
- ✗ Absence of documentation about financial arrangements.

Adapted from the following source materials:

Elderly Protection Project: Advanced Law Enforcement Training Manual by the Massachusetts Attorney General's Office. 1995.

Improving the Police Response to Domestic Elder Abuse by Martha Plotkin. et. al., Police Executive Research Forum. 1995.

Elder Abuse: Causes, Diagnosis and Treatment by Mary J. Quinn and Susan K. Tomita. New York: Springer, 1986.

Interviewing Techniques

A. Techniques for Interviewing Victims

- X Make the victim as comfortable as possible.
- X Tell the victim what to expect during the investigation.
- X Minimize the number of interviews and the number of people present.
- X Allow the victim to describe the incident in his or her own words.
- X Be patient and reassuring. Some older people, particularly those in crisis, may need time to collect their thoughts and may need to take frequent breaks. Avoid unnecessary pressure.
- X Acknowledge the victim's anxiety and try to discern its cause. For example, you may say, "You seem anxious. Are you concerned that your son will find out that you have talked with me?"
- X Keep it simple. Phrase questions in clear, concise fashion.
- X Keep questions short.
- X Ask open-ended questions that encourage further discussion.
- X Accept and use victim's terminology and language for acts, body parts, etc.
- X Avoid influencing the victim's account of the alleged offense.
- X If you feel that the older person is having difficulty understanding or communicating, ask him or her if he or she has assistant devices or someone who can help.
- X Ask the victim if he or she would like assistance. If so, ask how he or she would like to be assisted. Do not guess.
- X Even if the victim appears to be somewhat confused, do not discount the information. Make every effort to obtain the fullest possible response before relying on information from others.
- X If you need another person to assist in communicating or providing information for the victim, conduct the conversation in the victim's presence and look for signs of corroboration from the victim (e.g. nodding in agreement). Do not discuss the victim as if he or she is not in the room.
- X Do not discount a complaint because the victim is unwilling to cooperate.
- X Do not argue with the victim.
- X Assess the likelihood of retaliation. If a threat is present, arrange for protection. The Elder Abuse Provider Agency in your area may be of assistance.
- X Determine whom the victim first told about the abuse.
- X Show the victim records or other documents that suggest abuse. Record his or her response to each one that is in dispute.
- X Conclude the interview in such a fashion that the victim feels free to contact thy investigator again. Ensure that the victim is capable and has the means for contact. If not, take measures to facilitate

follow-up with the victim.

B. Techniques for Interviewing Witnesses

- X Determine the witnesses' relationships to the victim and the suspect.
- X Ask where and how they received their information.
- X Try to determine their motivation for offering information.
- X Determine whether the witnesses are likely to be intimidated, made **to** feel guilty, **or** threatened with reprisal for providing testimony.
- X Find out where they can be reached if follow-up is necessary.

C. Techniques for Interviewing Suspects

- X Advise the suspect of his or her rights, if appropriate.
- X Encourage the suspect to relate the incident in her or his own **words**.
- X Note the suspect's attitude or demeanor during the interview.
- X Determine the relationship between the suspect, victim, and witnesses.
- X Look for behavioral indicators of abuse.
- X If the suspect provide care to the victim:
 - ❖ Get complete information about his or her duties, **training**, pay and length of service.
 - ❖ Find out how involved the suspect is with the victim's **care and what he or she** expects of the victim - determine if this is reasonable.
 - ❖ Find out whether the suspect is the only one caring for **the victim**.
 - ❖ Determine how well the suspect is coping with the **caregiving** responsibilities.
- X Note statements that are inconsistent with other findings **and evidence**.
- X If handwriting is an issue, collect handwriting samples.
- X Do not communicate hostility or disbelief.
- X Show disputed documents t the suspect one at a time and **record his or her** response t each one.
- X If the suspect admfts to abuse, ask him or her to specify precisely **what he or she did and record** it.

Adapted from *improving the Police Response to Domestic Eider Abuse* by Martha Plotkln, et. al.. Police **Executive** Research Forum, 1995.

Capacity, CONSENT, AND Undue INFLUENCE

Three concepts that are integral to discussion about financial exploitation are capacity, consent, and undue influence. These terms refer to peoples' ability to exercise choice and free will. These factors are essential variables in the equation for determination if financial exploitation has, in fact, occurred.

Capacity

Capacity refers to an individual's ability to perform certain tasks. Mental capacity refers to the ability to perform mental tasks such as remembering, reasoning, and understanding the repercussions of one's actions. When these abilities are impaired, the individual becomes vulnerable to financial exploitation.

The level of capacity that is needed for performing tasks such as financial transactions depends on the specific nature of the transactions. The more complex the transactions, the more capacity is needed. For legal purposes, there are several levels of capacity: **testamentary capacity**, the capacity to **contract**, the capacity to give medical **consent**, and the capacity to **testify**. The types of capacity that generally come into question in financial abuse cases are testamentary capacity and the capacity to sign documents (i.e. contracts).

Testamentary capacity focuses on making wills. For a will to be legal, the individual must have sufficient mental capacity to be able to:

- 1) Understand the nature of the act;
- 2) Understand and recollect the nature and extent of his or her property; and
- 3) Remember and understand his or her relations to living descendants, spouse, and parents whose interests will be affected by the will.

Although there is no universal standard for what mental capacity is needed to enter into a contract, capacity for signing **contracts** is generally defined as understanding the nature and consequences of the transaction (i.e. the ability to know what one is doing and appreciate the effects of their actions). Some states have also addressed "**volition**" in assessing capacity. This relates to the fact that some individuals understand the nature and consequences of their actions but lack volitional control. An example is an individual suffering from manic depressive illness.

A myriad of problems surround discussion about capacity. This includes disagreement about what levels of capacity

are needed for specific tasks. In Illinois, for example, courts have generally ruled that executing deeds requires the same level of capacity as executing contracts. However, in a recent court decision in another state, the court ruled that the level of capacity needed for executing deeds was testamentary.

Another inherent problem in discussing capacity is that mental status is usually measured through mental status examinations. These tests measure categories of mental functioning including cognition, memory, etc. It is not always clear how these measurements apply to the performance of specific legal functions. A variety of other issues further complicate assessments of capacity. Additionally, some severely impaired individuals have periods of lucidity. For this reason, abusers who are charged with exploiting an older person's incapacity, can always claim that a victim was "lucid for a moment" (e.g. when they signed a contract or gave a gift). Consequently, financial exploitation investigators must consider how often a person is affected and how long the impairment lasts. Additionally, a mental impairment in and of itself does not render a person incompetent to make decisions, testify, etc. The seriousness or gravity of a situation also affects the degree of competency that is needed.

Consent

Determining whether financial exploitation has occurred may involve assessing if an individual consented to make purchases, accept assistance, or transact business. To exercise consent, an individual must have knowledge of the true nature of an act or transaction. They must also act freely and voluntarily and not under the influence of threats, force, or duress. They must further possess sufficient mental capacity to make intelligent choices about whether or not to do something that is proposed by another individual. Mere passivity does not amount to consent.

Undue Influence

Another factor which comes into play in the signing of contracts, executing wills, etc. is undue influence. Undue influence is a shorthand legal phrase that is used to describe excessive pressure or persuasion by a dominant person to someone who is vulnerable to pressure. It is a result of weakness on the side of the vulnerable party, strength on the other party's, or a combination of the two. When undue influence is exerted, the weaker party is prevented from acting according to his own wishes or judgement, or they are induced to do something that they would not do if left to act freely. If a contract is obtained through undue influence, the document is invalid. Courts will consider several factors when assessing if undue influence or over persuasion have been used (Neivod, 1992):

- ✗ Discussion of the transaction at an unusual or inappropriate time
- ✗ Consummation of the transaction in an unusual place
- ✗ Inconsistent demand that the business be finished at once
- ✗ Extreme emphasis on untoward consequences of delay

- ✗ Use of multiple persuaders by the dominant side against the vulnerable party
- ✗ Absence of third-party advisers to the vulnerable party

Adapted from *Financial Abuse of the Elderly* by Lisa Nerenberg, produced by the San Francisco Consortium for Elder Abuse Prevention for the National Center on Elder Abuse, 1996.

Financial Exploitation Investigative Checklist

While the type of information which should be collected in financial exploitation cases will depend on the form of exploitation that is alleged and the reason for the investigation, the following guidelines can be instructive to law enforcement officers.

- ❖ Interview victims and alleged abusers separately.
- ❖ Determine the relationship between the parties: Is the suspect a member of the victim's family? Is he or she in a position of trust? Does he or she live with the victim.
- ❖ Find out the sources of income, dollar amounts and payment due dates. Where are checks deposited?
- ❖ Determine the extent of the victim's estate, including real properties, bank accounts, certificates of deposit, stocks, home furnishings, personal belongings, and vehicles. Where are these located? Are there safety deposit boxes? Where and who has keys and/or access to the box? Where are the personal belongings (jewelry, art, valuable collections) kept? Insurance policies? What kinds and who are beneficiaries?
- ❖ Find out who owns the victim's home, whose name is on the deed, who pays rent, and who pays the taxes.
- ❖ Find out whose names are on bank accounts, investment accounts, etc. Where, what type and approximate balance in each.
- ❖ Find out who is the representative payee, attorney-in-fact, accountant, or guardian.
- ❖ Find out who pays the bills. What is the amount of monthly bills? Who writes and signs checks? What debts exist?
- ❖ Find out how the older person's pension, social security, or other income checks are received and deposited in the bank.
- ❖ Find out how cash is obtained. Are there credit cards or ATM cards? Does victim use them? Who else is listed on accounts..
- ❖ Determine if anyone is using the victim's residence or utilities without permission..
- ❖ Find out if bans and/or gifts have been recently made and to whom..
- ❖ Determine if there is a will and where it is located.
- ❖ Determine whether the victim is literate.
- ❖ Secure samples of the victim's and the alleged abuser's signature.
- ❖ Determine what documents signed by the victim have placed the estate in the suspect's control. They may include powers of attorney, bank signature cards, vehicle pink slips.
- ❖ Get copies of whatever document were signed..

- ❖ Determine the income of the alleged abuser.
- ❖ Collect evidence from other agencies.
- ❖ Check for previous criminal charges against the alleged abuser..
- ❖ Find out whether the victim is receiving adequate medical care, food, clothing, etc.
- ❖ Determine the victim's mental status: Is the victim mentally capable of understanding documents, testifying, or assisting in the investigation?
- ❖ If the person is incapacitated, or his or her capacity is questionable, contact family members, friends, or service providers to obtain mental health evaluations and histories. These should include information about the length of time that the victim has had diminished capacity in order to determine if he or she was able to give consent at the time it was given.
- ❖ If questionable purchases have been made, find out the value of the purchases, by and for whom they were made, the value of the purchases in relation to the abuser's salary and whether there has been a history of gift giving.
- ❖ Determine if the older person's estate is still at risk of theft, misappropriation, or embezzlement. If so, secure the estate as soon as possible.
- ❖ **Follow the funds!** Determine who has (or had) possession of all misappropriated funds or property.

Adapted from the Delaware Office of the Attorney General's *Financial Exploitation Investigative Checklist and Financial Abuse of the Elder* by Lisa Nerenberg, produced by the San Francisco Consortium for Elder Abuse Prevention for the National Center on Elder Abuse, 1996.

RESOURCE DIRECTORY

Elder Abuse and Neglect Reporting:

Allegations of Abuse, Neglect, Exploitation in Domestic Settings:

Illinois Department on Aging

Toll-Free Number: (800) 252-8966 (Voice or TDD)

After Hours (5:00 p.m. to 8:30 a.m. and on weekends and holidays): (800) 279-0400

Local Agency:

Phone:

Allegations of Abuse and Neglect in Long Term Care Settings:

Illinois Department of Public Health

Toll-Free Number: 1-800-252-4343

Long Term Care Ombudsman Program:

Illinois Department on Aging

(800) 252-8966 (Voice or TDD)

Local Sub-State Program:

Phone:

Other Aging Network Programs:

Illinois Department on Aging

(800) 252-8966 (Voice or TDD)

Local Numbers:

CCU:

Phone.

Legal Assistance

Phone:

Senior Center

Phone:

Home Delivered Meals

Phone:

Illinois Attorney General's Office

General Contact:

Regional Office:

Phone :

Domestic Violence Programs:

Illinois Coalition Against Domestic Violence

(217)789-2870

Local DV Program:

Phone :

Illinois State Police

General Contact:

Regional Office:

Phone :

State Financial Crime Task Force

(217)785-9052

Medicaid Fraud Unit (investigates Medicaid fraud and allegations of abuse and neglect in long term care facilities when it is believed a crime has occurred)

Chicago Area:

Downstate Area: (217) 786-7107

Sexual Assault Assistance:

Illinois Coalition Against Sexual Assault

(217)753-4117

Local Program:

Phone:

ELDER ABUSE PROVIDER AGENCY LISTING

The following is a list of Elder Abuse Provider Agencies designated by the Illinois Department on Aging to investigate reports of alleged mistreatment of older persons, and, where substantiated, to work with the older person to resolve the situation. Anyone suspecting abuse, neglect or financial exploitation of a person 60 years of age or older should call either the appropriate local provider agency or the Department's Senior HelpLine (1-800-252-8966; or from 5:00 p.m. to 8:30 a.m. and on weekends and holidays 1-800-279-0400). A trained caseworker will respond within a specified period of time.

Illinois Department on Aging's Toll-Free Number: 1-800-252-8966 (Voice or TDD)

After Hours (5:00 p.m. to 8:30 a.m. and on weekends and holidays) Toll-Free Number: 1-800-279-0400

PSA	COUNTIES SERVED	DESIGNATED ELDER ABUSE AGENCY	PHONE NUMBER	FAX NUMBER
01	DeKalb	Elderly Care Services of DeKalb County-102	(815)758-6550	815/758-4239
01	Carroll, Lee, Ogle, Whiteside	Lutheran Social Services of Illinois-Older Adult Svcs.-103	(815)626-7333	815/626-8752
01	JoDaviess, Stephenson	Stephenson County Senior Center-104	(815)235-9777	815/235-9571
01	Boone, Winnebago	Visiting Nurses Association of the Rockford Area-105	(815)226-1228	815/971-4339
02	Lake	Catholic Charities of the Archdiocese of Chicago, The Lake County-205	(847) 546-5733 (800) 942-3930	847/546-7114
02	Kankakee	Catholic Charities of the Diocese of Joliet, Inc-204	(815)932-1921	815/932-3030
02	DuPage •	DuPage County Department of Human Resources-239	(630) 682-7990 (800) 640-3683	630/682-7382
02	Grundy	Grundy County Health Department-217	(815)941-3117	815/941-2389
02	Kane	Senior Services Associates-216	(847) 741-0404 (Elgin) (630) 897-4035 (Aurora)	847/741-2163 630/897-6901
02	Kendall	Senior Services Associates-241	(630) 553-5777	630/553-6979
02	McHenry	Senior Services Associates-255	(815)344-3555	815/344-3593
02	Will	Senior Services Center of Will County-233	(815)740-4225 (800)892-1412	815/740-4218

PSA	COUNTIES SERVED	DESIGNATED ELDER ABUSE AGENCY	PHGME NUMBER	FAX NUMBER
03	Bureau, Henderson, Henry, Knox, LaSalle, McDonough, Mercer, Putnam, Rock Island, Warren	Alternatives for the Older Adult, Inc.-301	(309)786-1411 (800) 369-8724	309/786-1680
04	Fulton, Marshall, Peoria, Stark Tazewell, Woodford	SeniorStrength-451 The Center for Prevention of Abuse	(309) 637-3905 (800) 559-SAFE	309/637-3907
05	Ford, Iroquois	Catholic Charities of the Diocese of Joliet-506	(815)932-1921 (800) 772-2873	815/932-3030
05	DeWitt, Macon	Community Home Environmental Learning Project-504	{217}422-9888	217/422-9650
05	Vermilion	CRIS Senior Services-501	(217)443-2999	217/443-4288
05	Clark, Coles, Cumberland, Douglas, Edgar, Moultrie, Shelby	Cumberland Associates, Inc.-502	(217)849-3065 (800)626-7911	217/849-3804
05	Champaign, Piatt	Family Services of Champaign County-503 PATH-505	(217)352-5100 (309)827-1022	217/352-9512 309/827-7485
05	Livingston, McLean	West Central Illinois Ca6e Coordination Unit-601	(217)222-1189 (800) 252-9027	217/222-1220
06	Adams, Brown, Calhoun, Hancock, Pike, Schuyler			
07	Macoupin	Macoupin County Mental Health Association-729	(217)854-4706	217/854-3778
07	Montgomery	Montgomery County Health Department-732	(217)532-2001	217/532-2089
07	Cass, Greene, Jersey, Morgan, Scott	Prairie Council on Aging-733	(217)479-4600	217/245-6909
07	Logan, Mason, Menard, Sangamon	Senior Services of Central Illinois, Inc-738	(217)528-4035 (800) 609-4000	217/528-9322
08	Bond, Clinton, Madison (North)	Family & Community Services, Ina-802 Senior Alternatives	(618)463-5962	618/463-5965
08	Madison (South), Monroe, Randolph, St. Clair, Washington	Southwestern Illinois Visiting Nurse Association-801	(618)236-5863 (800) 642-5429	618/236-5859

PSA COUNTIES SERVED

13 Berwyn, Cicero

13 Barrington, Hanover, Palatine Wheeling

13 Bloom, Breman, Calumet, D> Harvey, Homewood, Markhar ThorntonTownship, Rich To*

13 Elk Grove, Schaumburg

13 Leyden

13 Thornton Township Cities Se Burnham, Calumet City, Dolti East Hazel Crest, Lansing, P Riverdale, South Holland, Th

13 Evanston, Niles

13 **Maine, New Trier, Northfeld**

13 **Oak Park, River Forest**

13 **Lemont, Orland, Palos, Wort**

13 **Proviso (except Brookfield a LaGrange)**

13 **Norwood Park**

13 **Lyons, Riverside and the vill Brookfield and LaGrange Ps**

13 **Sttckney**

PSA COUNTIES SERVED

09 Clay, Effingham, Fayette, Jefferson, Marion

10 Crawford, Edwards, Hamilton, Jasper, Lawrence, Richland, Wabash, Wayne, White

11 Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, Williamson

COOK COUNTY

PSA SERVICE AREA

12 **City of Chicago Sub-Area 1 (Northeast) Sub-Area 3 (Northwest)**

12 **City of Chicago Sub-Area 2 (Southeast)**

12 **City of Chicago Sub-Area 4 (Central/West) Sub-Area 5 (Southwest)**

DESIGNATED ELDER ABUSE AGENCY

Effingham City/County Committee on Aging-920

SWAN (Stop Women Abuse Now)-1001

Shawnee Alliance for Seniors-1180

PHONE NUMBER

(217)347-5569
(800)232-1790

(618)392-3556

(618)985-8322
(800) 642-7773

(773)583-2561

(773)978-7680

(312)986-4332

FAX NUMBER

217/347-5590

618/392-5514

618/985-8048

PHONE NUMBER

FAX NUMBER

TOLL FREE NUMBER TO REPORT ELDER ABUSE IN CITY OF CHICAGO: 1-800-422-6920