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## Senior and Disability Victimization Procedure

### 326.1 PURPOSE AND SCOPE

This procedure provides protocols required for investigations and arrests related to the victimization of seniors and people with disabilities. This procedure also acts as a reference and checklist for responses to such calls, as required by 368.6PC (Senior and Disability Justice Act).

### 326.2 INVESTIGATION PROTOCOLS

#### 326.2.1 PATROL OFFICER RESPONSIBILITIES

Per 368.6(c) PC, the below listed duties shall be completed by an officer responding to a call suspected of involving senior and/or disability victimization. Responding officers are responsible for adhering to this procedure as well as any requirements described in Policy 326.

Each dispatch call or case should be investigated on its own evidentiary merits and all reported or suspected cases of elder and dependent adult abuse require an investigative report, even if the allegations appear unfounded or unsubstantiated.

- (a) Upon receiving a report of suspected senior and disability victimization, officers shall determine if the reported crime occurred within UCPD jurisdiction. If the incident is the responsibility of another agency, the officer shall contact the original reporting entity to advise them accordingly and refer the investigation to the appropriate jurisdiction.
- (b) Officers must determine and document the basis for contact (i.e., citizen report, APS referral etc.).
- (c) If applicable, contact the following agencies to arrange for a cooperating and collaborative investigation. Upon contacting those services, or any other reporting entity, determine if prior reports have been received with the involved subjects.
  - 1. Adult Protective Services
  - 2. Child Protective Services
  - 3. The Bureau of Medi-Cal Fraud & Elder Abuse (for abuse that constitutes criminal activity in a long-term care facility)
  - 4. Ombudsman (if the victim resides in a skilled facility)
- (d) Any incident involving a serious injury or death shall immediately be investigated. For incidents involving suspected foul play or suspicious circumstances, the UCPD Investigations Unit shall be notified as soon as practical. A suspicious death must be considered a potential homicide and officers shall not assume that the death of an elder or person with a disability is natural simply because of the age or disability of the deceased. Any unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability will continue to be treated as a potential homicide and potential abuse until a complete investigation, including an autopsy, is completed.

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- (e) In the event of death, determine if the incident involved the End-of-Life Option Act (Health and Safety Code § 443). Officers should refer to Policy 326 for more details about this act and its associated procedures.
- (f) Document and photograph the scene and any visible injuries.
- (g) Determine if the victim sought, or is in need of, medical attention. The officer must then ensure receipt of signed medical releases from potential victims.
- (h) Determine whether the victim identified a household member or caretaker as the alleged perpetrator.
- (i) Identify other potential victims or witnesses who may reside in the residence or have more information.
- (j) Identify the involved party's previous addresses to locate additional reports or allegations of abuse.
- (k) Contact other jurisdictions, as reasonably known, to locate call history related to the elder or dependent adult. This includes calls from mandated reporters or other individuals.
- (l) Gather any relevant documents associated with the investigation (i.e., court orders, custody agreements, power of attorney documents etc.).
- (m) Recognize that victim cooperation is sometimes unnecessary for prosecution, and that in some cases, allowing victims the option of preventing prosecution creates an opportunity for the perpetrators to obstruct justice by pressuring or threatening the victims.
- (n) Review all available calls, camera footage, videos, phone recordings, officer recordings, or other available media for important information.
- (o) Make a reasonable effort to determine if any person committed unlawful interference in a mandated report.
- (p) Determine if the crime was committed in whole or in part because of the victim's perceived or actual disability. If so, the incident shall be documented as a hate crime.
- (q) Consider whether there is any indication the suspect committed a criminal offense because of bias, which would constitute a disability-bias hate crime.
- (r) Effect an arrest, if applicable, based on the established arrest protocols (See Arrest Protocols below).
- (s) Determine if the victim or others need to be taken into protective custody. Officers shall follow Policy 326 when taking someone into protective custody.
- (t) The investigating officer shall comply with all mandatory reporting and notifications listed in policy 326 (Mandatory Notification). This includes notification of the results of the investigation being made to the Protective Services offices or long-term ombudsman that referred or reported the elder or dependent adult abuse. Notifications shall be made when an officer reasonably suspects, has observed, or has knowledge of an incident that reasonably appears to be abuse, or is told by an elder or dependent

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adult that they have experienced abuse. Notification must be made by telephone as soon as practicable, and a written report shall be provided within two working days.

#### 326.2.2 DETECTIVE RESPONSIBILITIES

The Investigations Unit will be available to investigate Senior and Disability Victimization. These cases may either have been forwarded by patrol or originally initiated by the Investigations unit.

In the event a senior and disability victimization case is forwarded to the Investigations Unit, it is the responsibility of an Investigations Supervisor to review and determine whether to assign a Detective to further investigate the case.

Assigned investigators are responsible for following all the listed protocols in the patrol responsibilities section of this procedure as well as in Policy 326. In addition, the assigned investigator is responsible for the below listed tasks:

- (a) Facilitate joint investigations with other agencies with more advanced training and expertise, including but not limited to:
  1. CALICO [REDACTED]
  2. Alameda County Family Justice Center Elder Protection Unit [REDACTED]
  3. Child Protective Services [REDACTED]
  4. Adult Protective Services [REDACTED]
  5. Bureau of Medi-Cal Fraud [REDACTED]
  6. District Attorney's Office [REDACTED]
  7. Ombudsman Inc. [REDACTED]
- (b) Present any case of suspected elder or dependent adult and persons with disabilities abuse to the Alameda County District Attorney's Office to consider filing criminal charges.
- (c) Facilitate any further investigation as directed by the DA's Office.
- (d) Follow-up with any mandatory notifications.
- (e) Help facilitate victim resources, including, but not limited to programs administered by the California Victim Compensation Board [REDACTED] and the Alameda County Victim-Witness Assistance Division [REDACTED].

#### 326.2.3 INTERVIEW

Victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible when interviewed appropriately by trained officers or other trained persons. Some elders, adults and children with cognitive or communication disabilities may have difficulty narrating events, appear to be poor historians, or lack short-term memory, which adds to their vulnerability and therefore requires officers to make special efforts to provide them with equal protection.

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- (a) Depending on the cognitive and communicative abilities of the person being interviewed, Officers should consider deferring interviews to a person with specialized training and expertise (if one is available).
  - (b) Interview each alleged victim, witness, and suspect who is available at the time of response. The interview process must take the individual's cognitive and communicative disabilities into account to make special efforts to provide them with equal protection.
  - (c) The officer should interview individuals regardless of if they have cognitive or communication disabilities. This must be done sensitively and delicately for the well-being of the interviewee.
  - (d) Be flexible and willing to interview the individual in a reasonable place that is comfortable/familiar to them. An effort should also be made to avoid unnecessary, repeated interviews.
  - (e) Officers must notify potential victims of sex crimes that they have a right to have a support person of their choice present at all times.
  - (f) Interview caretakers and family members separately, recognizing that in some cases, they are the perpetrators.
  - (g) Prior to an interview, ensure all parties are safe, secure and are in as comfortable of an environment as can be reasonably accommodated.
  - (h) Secure a qualified interpreter for individuals who are deaf or hard of hearing before interviewing. Written communication (notepad or assistive devices) may be used if the individual affirmatively indicates they do not want an interpreter.
- A qualified interpreter may be acquired by contacting the Alameda County Courts Interpreter Services Office [REDACTED], which maintains a current roster of qualified interpreters and sign language/oral interpreting services (per Evidence Code 754).
  - If at any time the individual is unable or unwilling to continue the interview, the officer should stop and contact the Investigations Unit to arrange a collaborative interview to be conducted at a later time.

#### 326.2.4 EMERGENCY PROTECTIVE ORDERS

If applicable, offer the victim an Emergency Protective Order (EPO) at the time of interviewing. This must be done whenever necessary or advisable to protect a victim's safety, at any time of day or night. See below for the appropriate steps for obtaining an EPO:

- (a) Contact the Alameda County Dispatch Center at [REDACTED] to reach the on-call judge or commissioner and present the relevant information for EPO consideration.
- (b) Provide the victim with all EPO information and associated forms.
- (c) Make reasonable efforts to determine if an obtained order prohibits the possession of firearms or requires the relinquishment of firearms, and if the order does so, the officer shall make reasonable efforts to do each of the following:

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1. Inquire whether the restrained person possesses firearms. The officer may make this effort by asking the restrained person and the protected person.
2. Conduct a query through the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.
3. Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search.

#### **326.2.5 ARREST PROTOCOLS**

In the event probable cause arises to support the arrest of a suspect, officers shall adhere to the following protocols to effect an arrest for senior and disability victimization:

- (a) A warrantless arrest shall be made by an officer when an incident of senior and disability victimization is committed in their presence, including but not limited to a violation of a protective order.
- (b) In the case of a felony not committed in the officer's presence, the officer shall make a warrantless arrest of a suspect based on probable cause if the suspect is immediately accessible. In the case of an incident causing serious injury or death, all reasonable efforts to make an immediate arrest of a known suspect should be exhausted.
- (c) In the case of a misdemeanor not committed in the officer's presence, the officer shall complete a crime report articulating the probable cause to arrest and the details of the incident. The misdemeanor may include but not be limited to unlawful interference with a mandated report or misdemeanor violation of a protective order. Upon completion of the investigation, the officer shall seek an arrest warrant or the report should be forwarded to the DA's office for possible prosecution and the issuance of an arrest warrant.
- (d) With any crime involving the victimization of seniors or people with disabilities where the suspect is not arrested or located, a report should be completed, and the investigating officer should apply for a warrant or file criminal charges by way of complaint.

#### **326.3 REVISIONS**

Adopted: September 30, 2021