

**18<sup>TH</sup> ANNUAL NAPSA CONFERENCE**  
**SEPTEMBER 6 – 8, 2006**  
**ATLANTA, GEORGIA**

**EFFECTIVE INVESTIGATION & PROSECUTION**  
**OF**  
**DOMESTIC ELDER ABUSE CASES**

**THURSDAY, SEPTEMBER 6<sup>TH</sup>, 2006**  
**9:00 A.M. – 10.30 A.M.**

**PRESENTED BY:**  
**ARLENE M. MARKARIAN, ESQ.**  
**BUREAU CHIEF**  
**DOMESTIC VIOLENCE BUREAU / ELDER ABUSE UNIT**  
**KINGS COUNTY DISTRICT ATTORNEY'S OFFICE**  
**[*BROOKLYN!*]**

***CONTAINS TWO (2) OUTLINES***

## ***INTERVIEWING TECHNIQUES FOR VICTIMS OF ELDER ABUSE WHO MAY SUFFER FROM ALZHEIMER'S DISEASE OR RELATED DEMENTIA***

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By Sue Beerman, Barrister Advisory Services, Inc., author of *Eldercare 911*, Prometheus Books, 2002  
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*Some of these suggestions may already be a part of your interviewing technique. Remember, interviewing a senior citizen [whether or not the senior has dementia] takes patience, sensitivity, a watchful eye and a keen ear. Also, don't PRESUME that an elderly victim suffers from Alzheimer's Disease or other dementia. Not all seniors do. However, you don't know what the issues are until you complete your initial interview. These tips will hopefully help you figure it out.*

### **I. THE INTERVIEW**

- A. IMPORTANT:** Before you begin the interview process, ask all family, hired caregivers, or anyone else present to **leave the room**. You may call upon them later to observe the victim's response to certain individuals. When the interview occurs at your agency offices, find a **private place** to conduct it where other people can't overhear what is being said. Many victims are embarrassed and do not want others knowing of their abuse.
- B. ALSO IMPORTANT:** Please remember to take breaks during the interview. Does the victim need to use the bathroom? Is s/he hungry or thirsty? Does s/he need to take any medications? Is s/he getting tired? Should you stop and pick it up again the next day? Remember that your interview will be much more fruitful if the victim is fresh and has energy. It is best to interview older individuals earlier in the day, rather than later.
- C. Keep your weapon out of sight. Wear a jacket. [For police/peace officers.]**  
A confused person may not understand that you are there to help him/her. Some individuals suffer from delusional thinking and may incorporate your weapon into their reality. Example: The victim may have watched a police television show a few hours before and you then walk into his room. Reality and fantasy may become confused and the victim may become too agitated for you to talk with him.

**FYI #1:** Keep in mind that many immigrants have come from countries where they feared the police and/or the military. They do not see the police as source of safety. Immigrants may also fear the social consequences of bringing "shame" to family, as well as deportation if the police become involved in the situation.

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- D. Begin your conversation with orienting information and address the victim by his/her name.** \*Be respectful—address the senior as Mr., Mrs. or Ms. unless the senior invites you to use his/her first name. Be specific and indicate immediately that you are a friend. Speak in a conversational tone to create a pleasant mood and begin developing a sense of trust.

Example: “Hello, Mrs. Smith, I am Janet Jones and I am here to help you.”

- E. Face the person and look him/her in the eye. Ask permission to sit down near the individual in order to be at eye level. Never conduct an interview towering over a frail, [demented or not] man or woman. \*Remember, many abusers stand over their elderly victims and use their body to intimidate them.**

Try to give him/her enough space [about one foot] so the senior does not feel crowded or threatened. Maintain eye contact to help keep the individual focused.

**FYI #2:** However, please keep in mind that in some cultures it is considered disrespectful to make eye contact with an authority figure such as a police officer.

- F. Be aware of environmental distractions.**

Example: Radio, television, an open window facing a busy street. Don’t try to shout over these distractions, **simply eliminate them.** Shouting may be perceived as an assault on the victim and trigger an attack of anxiety or agitation. \*Remember, abusers shout at their victims in an effort to intimidate and instill fear in them. Being surrounded by multiple stimuli will make it almost impossible for a cognitively impaired person to concentrate on you and what you are asking them.

- G. Assistive Devices**

Does the senior need his/her hearing aid, glasses or dentures? If so, ask the senior or companion/caretaker where they are. Remember, if the senior can’t see you as clearly as possible, hear what you are saying or properly speak, then your interview may not be as fruitful. Again, do not raise your voice. It is not effective and it may cause the individual to feel uncomfortable and/or fearful.

**FYI #3:** Abusers will often take away seniors’ dentures, hearing aids, canes, etc. [and even withhold medication] in order to isolate, coerce and intimidate them. This also forces the victims to rely on their abusers.

- H. Smile and relax.**

Smiling is often difficult to do when you are involved in serious business. However, Alzheimer’s and dementia patients are VERY SENSITIVE to feelings. Often a smile may be just the leveler to maintain calm and avoid distress. But if you are smiling while gritting your teeth and arms folded across your chest, the message will be “displeasure.” This stance will frighten the individual. Your physical posture (body language) and what you say should complement one another.

**I. Speak slowly, in short and simple sentences. Be patient and always wait for a response.**  
Example: Mrs. Smith, did you hurt your arm? Give her time to respond before you ask your next question. Do not assume she understands everything you are saying. See what she does, not necessarily what she says, in response to your questions. Please keep in mind, however, that this doesn't mean that you should presume that all older people may have difficulty understanding you. Keeping it short and simple helps you evaluate the situation.

**J. Listen**

You are trained to listen to people, but it is often difficult when the individual is not communicating clearly. Ask for clarification when you need it. If the individual has trouble with “word finding”, use some examples. For instance: If you see bruises on the senior's arm, you might say “Mrs. Smith, did someone do this to you?” Look at her eyes, reaction and body language. Do not interrupt. Allow the senior to finish her thought before you ask another question. *Be patient!*

**K. Acknowledge feelings**

Even if the language is unclear and the cues are confusing, try to recognize the individual's feelings, by their tone of voice. Let him know that you are aware of how he feels by simple responses: Example: “Mr. Smith, are you angry?” Don't dismiss his feelings. It gives the individual a sense that you care and that you are trying to understand.

**L. Touch**

A simple touch can convey approval, caring and security. If you are helping someone to a chair, ask his permission to assist him. Lightly hold onto his elbow.

**FYI #4:** Again, we must always try to be aware of cultural differences. While a gentle touch on the shoulder may be comforting to some elderly victims, in some cultures this is considered an intrusion and would be inappropriate by a stranger.

**M. Look – Observe - Smell**

Watch the individual's body language. If there are allegations of abuse by a hired or family caregiver, ask them to join you at some point. Observe the victim's reaction to the caregiver when the caregiver re-enters the room. Observe the victim's response and comfort level. Observe obvious bruises and signs of neglect, e.g., “grab marks” [finger marks or fingertip-sized bruises which result from the abuser grabbing the senior—usually on the arms], body odor and/or dirty clothing or body.

**FYI #5:** Grab marks alone do not necessarily constitute elder abuse. Sometimes marks can be left behind when trying to lift someone or help them in/out of the shower. However, grab marks should be considered with the rest of your observations—consider them a “red flag” and investigate further. At the very least, the caregiver may need some help in caring for the senior.

## **N. Distraction**

If the victim becomes distracted by something else going on in the room or he becomes agitated, try to distract him by drawing his attention to something or someone else. For example: “Do you have a picture of your grandchildren?” Once he seems involved in the new conversation, bring him back to what you were talking about and continue the interview.

## **II. TYPES OF ELDER ABUSE**

- A. Physical Abuse:** Includes all assaultive behavior, e.g., punching, slapping, grabbing, cutting, burning, the use of weapons and/or forcibly restraining the senior.
- B. Sexual Abuse:** Includes not only forcible or non-consensual touching, but touching where the victim is **unable** to give consent, e.g., victim suffering from advanced Alzheimer’s Disease.
- C. Psychological/Emotional Abuse:** Includes intimidation tactics, threats to kill or hurt the senior, a family member or a beloved pet. Threats to damage personal property like sentimental items or to burn down the house. Threats to send senior to a nursing home. Also includes controlling and isolating the senior. [E.g., taking away “assistive devices” or medications as discussed above.]
- D. Neglect:** The refusal, failure or inability to carry out a caretaking responsibility such as withholding food, medicine, aids [glasses, hearing aids, dentures, walker, etc.]; not providing proper hygienic care; not frequently moving a bed-ridden senior; or not providing needed medical care.  
  
**FYI #6:** *Self-Neglect* is the refusal, failure or inability of a senior to properly care himself. While this is not a form of “elder abuse” because it is not being committed by a third party, intervention is necessary to prevent serious harm.
- E. Financial Abuse:** Using threats to force the senior to give money, power of attorney, or any other access to assets. The unethical use of the senior’s money or assets by anyone including a “friend”, family member or caretaker.

## **III. HELPFUL TIPS**

- A.** Be suspicious when you see: bed sores, bruises [old and new/various stages], lacerations [old and new/various stages/scarring], dehydration, malnutrition and/or over-medication [to keep the senior sedated so they won’t be “a bother” or “wander”]. **\*\*Affirmatively look for “grab marks” and other injuries.** If the senior is wearing a sweater, ask her if she would

mind removing it. **\*\*Is the victim taking any medications or blood thinners that would cause easy bruising??** Important to know when assessing a situation.

- B. Beware of caretakers giving the senior homeopathic or over-the-counter remedies. Find out if the senior is taking these remedies voluntarily and whether the senior is being harmed by them. Should these remedies be taken when the senior is taking prescribed medications? Check with a doctor or pharmacist.
- C. When caretaker or companion re-enters the room, watch the senior's reaction. Does the senior curl up, cover his/her face or genital area? This may be a sign that the companion is an abuser. Also, watch the companion/caretaker. How does that person interact with the senior?
- D. Does the caretaker refuse to let you speak to the senior alone? Does the caretaker answer for the senior? This can be controlling behavior, as well as suspicious.

**FYI #7:** Having bed sores, bruises or poor hygiene isn't necessarily a condition of old age. [Not all seniors "bruise easily".] It can be a sign of elder abuse. Don't dismiss it. Look into it further. *The senior's life could depend on it.*

**FYI #8:** If you are not sure whether it's elder abuse, speak with the ER doctor or hospital social worker. Speak with a geriatrics specialist, if one is available at the hospital. You can also call your local District Attorney's Office, Adult Protective Services or Office for the Aging. If it is even *possible* elder abuse, you must investigate further!

**FYI #9: Not all cases of neglect are criminal.** Many times, family members are trying to care for the senior, but are just not able to properly do so. Other times, family members may be in denial. For example, a husband may not want to face the fact that his wife has Alzheimer's Disease. He may feel that she is able to care for herself, as she always has. However, she is suffering from malnutrition and dehydration. Clearly these families need help. Your local Office for the Aging will be able to assist them. Many times, the senior may be entitled to services which are free or covered by Medicaid. Speak with the hospital social worker regarding your investigation so the proper referrals can be made. Try to follow-up so the case does not "fall through the cracks".

#### **IV. WHAT DO WE NEED TO PROSECUTE?**

- Document your observations of the senior including the injuries and reaction to the caretaker.
- Document your observations of the caretaker [Does the caretaker refuse to leave the senior's side, refuse to let you speak with the senior alone, answer for the senior, etc? Document it.

- Document what the senior tells you—indicate the emotional state of the senior [e.g. crying, shaking and stated that her son beats her.] This is very important because these statements may be used at the trial of the abuser.
- Document whatever the caretaker says to you [e.g. if the caretaker claims the senior fell down—especially if the injury is not consistent with the story.].
- Photograph the injuries and general physical condition of the senior.

**\*\*DON'T FORGET TO INCLUDE DATES, TIMES, PLACES AND PEOPLE PRESENT WHEN DOCUMENTING THIS INFORMATION. MAKE SURE THE DATE AND VICTIM'S NAME ARE ON PHOTOGRAPHS, AS WELL THE PHOTOGRAPHER'S NAME.**

**\*\*REMEMBER--IF IT'S AN EMERGENCY, CALL 911 !! IF YOU ARE LAW ENFORCEMENT AND YOU ARE NOT SURE ABOUT A SITUATION, HAVE THE SENIOR BROUGHT TO A HOSPITAL FOR EVALUATION OR CALL ADULT PROTECTIVE SERVICES.**

**\*\*BEWARE! DO NOT CALL 911 IN FRONT OF THE ABUSER OR TELL HIM THAT YOU ARE DOING SO. STEP OUTSIDE AND CALL. WAIT FOR POLICE AND TELL THEM WHAT HAPPENED. DO NOT TOUCH ANY CONTRABAND IN THE HOUSE, I.E., GUNS, DRUGS, ETC.. AGAIN, CALL 911. The last thing you want to do is take the contraband to the police station—Murphy's law will take over...you will get pulled over for a traffic infraction and then get arrested for possession of the gun!**

***GOOD LUCK!***

**EVIDENCE-BASED PROSECUTION**  
**OF**  
**DOMESTIC VIOLENCE & ELDER ABUSE CASES**

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**WHY??**

The victim is unwilling to participate in the prosecution of a case. You may ask yourself, “Why bother?”—If the victim doesn’t want to help herself, let’s use our resources to investigate other cases.

Put yourself in the victim’s shoes—e.g., would a mugger call you after the mugging and beg your forgiveness or threaten you to drop the charges or try to make you feel guilty for having him/her arrested? NO!!! But this routinely happens in domestic violence and elder abuse cases.

Domestic violence offenders know where their victims live, worship and socialize. The offenders know the stores their victims frequent, where their family/friends live and their everyday routines. Imagine constantly looking over your shoulder in fear of being attacked. Possible retribution causes great fear in domestic violence victims. This is especially true in senior dating relationships. Senior citizens date too. They may date someone significantly younger than themselves. Under these circumstances, the victim is not only being stalked and fears physical injury—but may also be embarrassed by the age difference. Too embarrassed to tell family, friends or law enforcement about the abuse.

Also, let’s not forget about *senior spousal abuse*—imagine being married or in an intimate relationship and your significant other either verbally or physically abuses you. What if you have been married to this person for three or more *decades*? –and he has abused you throughout the relationship! Do you think that a senior in this position would be able to leave the relationship or testify against their loved one? Think about it.

Does the abuser only abuse that one victim? Not necessarily. Domestic violence offenders many times abuse everyone with whom they have had an intimate relationship. Would you want this guy getting involved with your sister, daughter or mother??

As parents, can you imagine a situation where you must call the police on your child? What if you are a frail senior citizen and your adult child (or grandchild) is drug addicted or mentally ill? What if that child threatens you for money and becomes physical if you try to refuse? How do you feel as you watch the police handcuff your child and take him/her away? What do you do when that child then calls you from jail, crying and telling you that all sorts of horrible things are happening there? Do you think that you would voluntarily testify against your child? Even if he/she seriously injured you? THIS IS ONE OF THE MANY ISSUES IN ELDER ABUSE CASES.

What about seniors who suffer from *Alzheimer's Disease* or other diseases which prevent them from protecting themselves from neighbors, family or even their own home attendant? Many times the senior is physically unable to tell anyone what is happening to him/her or who is responsible for the abuse.

**NEGLECT** is another form of abuse. Neglect occurs when a caretaker [whether paid or not] does not properly care for the senior. This can include failing to provide appropriate nourishment and/or medical care for the senior, as well as not caring for their personal hygiene [i.e., allowing the senior to remain in feces-soiled clothes or bed].

However, keep in mind that not all neglect cases are criminal. Many times family members try to care for an aging relative, but are not able to do so properly. That is different from the case where the person is *not even trying* to properly care for the senior.

Senior Citizens can be frail and may have physical or mental ailments which they did not have as younger adults. It may only take a push or a shove to cause them to fall down and break a major bone, like the hip. As we know, the older we get, the tougher it is to bounce back from an injury. A broken hip will probably have a profound affect on the senior's quality of life—or may result in her death.

If we don't prosecute abusers as vigorously as possible, the abuser will not be stopped until it's too late, i.e., **MURDER.. DON'T THINK THAT IT CAN'T HAPPEN.** We must intervene before it gets to the point of no return. There are programs and services available for both the victim as well as the abuser. The victims need to know that there is help for them as well as their significant others and children.

**\*\*NOTE:** Although the majority of victims may be female, **male victims** in parental and "relationship violence" exist as well. It seems that male victims are less likely to come forward because of the embarrassment in admitting that they are being beaten by a woman. Furthermore, "relationship violence" exists in heterosexual as well as gay and lesbian relationships.

**\*\*ANOTHER NOTE:** Although there are both female and male defendants and victims in domestic violence and elder abuse cases, defendants will be referred to in the masculine and victims in the feminine for the purposes of this outline.

## **HOW??**

Many times in domestic violence and elder abuse cases, the trials become a “he said / she said”. This is because all of the available evidence is not collected or obtained which can prove and/or corroborate the allegations. If the victim testifies, we must have evidence to corroborate her so the jury will feel we met our high burden of “beyond a reasonable doubt”. If she does not testify for the prosecution, then we need independent evidence to prove each and every element of the crimes charged, as well as the identity of the perpetrator. If the victim suffers from advanced Alzheimer’s Disease or other dementia, she may not be *able* to testify. [I’ll say it again, if the victim does not testify for the prosecution, we will not only need evidence to prove the crimes charged, but we will also need evidence to prove that it was *the defendant* who committed the crimes.]

Since the victim may not testify at the trial, we must investigate a domestic elder abuse case as if it was a homicide case—we must try to prove the charges without the victim’s testimony. The BEST time to obtain the evidence is in the BEGINNING of the investigation—as close in time to the commission of the crime as possible.

## **WE NEED EVIDENCE!!**

### **1. PHOTOGRAPHS**

- **OF VICTIM**

To be able to identify her later if she moves and we need to find her.  
To show general physical condition and hygiene. [Neglect]

- **OF VICTIM’S INJURIES**

Including scratches, bruises, “grab marks”, lumps, lacerations or bed sores.

**\*Remember to take off bandages for photos! [If serious injury, with doctor’s permission and guidance, of course!]**

**\*Remember to take at least one photo of her injuries which shows her face [so we know she’s the one in the other photos!]**

**\*Document the victim’s name, date and your name as the photographer on the back of the photo.**

- **OF DEFENDANT’S INJURIES OR LACK OF INJURIES**

Especially important if abuser later claims self-defense.

Include photos of:

\*Face, torso and hands (top & bottom)

- \*Swollen, red hands if defendant beat victim
- \*What defendant was wearing at time of crime—include footwear if he kicked her or the pet  
[seize footwear!]

- **OF ALL BLOODY/BLOOD STAINED ITEMS**

- **OF PROPERTY DAMAGE**

- \*To show struggle or use of intimidation.
- \*Include telephones ripped out of wall to prevent 911 call.

Many times, abusers will break, smash or damage the victim’s personal property (usually items which have sentimental value) in order to intimidate and control the victim. This is common in elder abuse cases.

- **OF TEXT MESSAGES; NUMBERS ON BEEPERS AND CALLER I.D. BOX**

- **OF ENTIRE HOME/CRIME SCENE**

- \*To show living conditions, including how much of the home was taken over by the abuser and where the victim sleeps.
- \*Include photographs of the inside of the refrigerator and cabinets to show the *lack of* food in the home. [Neglect]
- \*Photographs of broken property and overturned furniture to show signs of struggle.  
Especially significant where defendant claims “we only had an argument” or “she just fell”.

***LAW ENFORCEMENT MUST TREAT THE VICTIM’S HOME AS A CRIME SCENE !***

- **OF ANY PROPERTY TAKEN INTO CUSTODY**

- All seized property should be photographed where it was found **before** removing it for vouchering. [See “seizing/vouchering property” below.]

**2. SEIZING/VOUCHERING EVIDENCE**

**\*\*WARNING: IF YOU ARE NOT LAW ENFORCEMENT, DO NOT TOUCH ANY CONTRABAND, INCLUDING: FIREARMS/GUNS, AMMUNITION, FLAMMABLE/TOXIC LIQUIDS OR ANY OTHER DANGEROUS INSTRUMENTS; DRUGS, DRUG PARAPHERNALIA; OR ANY BLOODY ITEMS. CALL THE POLICE/911 IMMEDIATELY.**

- **WEAPONS**

- \*Not just guns and knives, but also items used to injure or threaten the victim including scissors, spatulas or other utensils, shoes, boots, etc.

- \*Evidence that defendant owns or has access to weapons including holsters, cartridges, clips, firearm cleaning items, knife sheaths, etc.

**Some weapons cannot be vouchered. For example, frozen turkeys (I'm not kidding!). Clearly, the property clerk will be quite upset if you voucher a frozen butterball. In these cases, photograph the item. A frozen turkey can be purchased for trial to be used as "demonstrative evidence". [Don't forget to document the weight so the prosecutor knows what size to get!]**

- **CONTAINERS OF ASSAULTIVE &/OR FLAMMABLE LIQUIDS**

- \*E.g., lye, gasoline, etc. Voucher empty containers as well. Obviously, submit for testing.

- \*RE: Arson cases—don't forget to voucher defendant's clothes and matches/lighter found on him.

- \*If defendant threw chemical substance at victim, check closely for any injuries on him (photographing them), however slight. Seize his clothes and submit for testing.

- **DRUGS AND/OR DRUG PARAPHERNALIA**

- Evidence of drug use is especially relevant to prove the abuser's  *motive* to commit the crimes, including theft, assault and neglect. Items should be photographed where found before seized as evidence. [For example, photograph empty crack vials on the floor before seizing them.]

- **ALCOHOLIC BEVERAGES/EMPTY BOTTLES, CANS OR OTHER CONTAINERS**

- If there are beer bottles/cans, vodka bottles, etc. all around the house, photograph them where they are found and then seize them. Again, evidence of excessive alcohol consumption/alcoholism is relevant in theft, assault and neglect cases.

- **DAMAGED PROPERTY**

- Including telephones ripped out of wall, damaged personal property as well as property damaged during a struggle or as a means of intimidation.

- **ITEMS USED TO RESTRAIN, GAG OR TORTURE VICTIM**

- Includes belts, rags, electrical cords, razors, etc.

- **LETTERS W/ ENVELOPES; E-MAILS**

- Ask victim for everything she has. Many people save letters and notes. They may contain threats, apologies or evidence of defendant's motive, jealousy and /or

stalking behavior. It can also be useful as a handwriting sample to compare with writings at issue in the trial. For those technically inclined, let's not forget about **e-mails and text messages!**

- **VICTIM'S AND/OR DEFENDANT'S DIARY/CALENDAR DOCUMENTING ABUSE**

- \*Affirmatively ask victim if she has documented the abuse.

- \*Law Enforcement: Do you need a search warrant to look through defendant's calendar/diary? Know the Search and Seizure laws of your state.

- **ANSWERING MACHINE/VOICE MAIL MESSAGES AND/OR TAPES**

- Containing threats of violence or as evidence of stalking. Also, threats of financial ruin or of being sent to a nursing home in elder abuse cases. Save messages left on voice mail/digital machines and tape record. Can also be used to identify defendant's voice on other recordings at trial.

- **DID DEFENDANT HAVE THE ORDER OF PROTECTION [OOP] IN HIS POCKET? OR IN HIS CAR? IF SO, SEIZE IT!!** [and document where you found it!]

- **CLOTHING, SHEETS, BLANKETS OR OTHER ITEMS WITH BLOOD STAINS [PLACE IN PAPER BAG]**

- **CLOTHING, SHEETS, BLANKETS OR OTHER ITEMS WITH FECES/URINE STAINS [Neglect]**

- **BLOODY/TORN CLOTHING**

- Of both, victim and defendant

- **MARTIAL ARTS PARAPHERNALIA**

- Defendant's knowledge and proficiency in the martial arts, boxing or other type of combat training can be highly relevant in assault and murder cases.

- **FINANCIAL DOCUMENTS**

- Including bank statements, ATM receipts, bank withdrawal slips, "overdue" notices, unpaid bills, deeds, powers of attorney, health care proxies and wills. Seniors are many times both physically *and* financially abused by a family member, caretaker, landlord or "new friend". The financial abuse may be the  *motive* for the physical abuse or neglect. Often the abuser obtains control over the senior's finances on the pretense that they will take care of the bills but instead, take the money for themselves.

- **EVERYTHING!**

A jury needs to see everything. It brings them back to the time of the crime and corroborates your witnesses—police or civilian—and it makes you look good for getting it! Most importantly, it shows the jury how serious the crime was and the effect on the victim.

## **THINK ABOUT SEARCH WARRANTS!!** [law enforcement]

### **3. EYE WITNESSES, EAR WITNESSES & NOSE WITNESSES**

- **TO CRIME CHARGED**

- **TO PREVIOUS INCIDENTS OF ABUSE**

Document names, addresses and telephone numbers of neighbors, friends, family or anyone else who may have either *seen, heard, or smelled something*—either now or in the past. In elder abuse cases, neighbors may have *smelled* something that indicates neglect. [E.g., the strong odor of urine or feces.]

**\*Remember, walls are thin! WHO CALLED 911???**

### **4. DOCUMENT “EXCITED UTTERANCES” BY VICTIM**

Generally, when victim is *crying/shaking/injured/upset* and tells someone what happened to him/her or tells them about the abuse/neglect soon after it occurred or as soon as possible.

Document the victim’s *demeanor* as well as the statement. For example, was victim crying, shaking or curled up in a fetal position?

Document the victim’s demeanor when the suspected abuser enters the room—does the victim cringe, shake, cover his/her face or close his/her legs?

Check for excited utterances to:

- \*Friends/neighbors or other people at the scene
- \*EMS
- \*First police officers to arrive at scene
- \*Nurses/doctors
- \*To 911 [get tape/cd asap!]
- \*To the 911 caller

## 5. DEFENDANT'S STATEMENTS

### **DOCUMENT ALL STATEMENTS NO MATTER HOW INSIGNIFICANT AT THE TIME**

For example, if abuser claims that injury was result of an accidental fall, but later, a doctor concludes that the injury is inconsistent with a fall, the abuser's claim can be used against him/her at trial.

Check for statements made to not only police, but to:

- \*Neighbors
- \*Landlord
- \*Friends/Family
- \*Employer
- \*EMS
- \*Hospital personnel
- \*Jail/Prison Officials [check corrections records]
- \*Parole/Probation Officer

**\*\*Did the defendant call 911??** Get 911 tape/cd as soon as possible!

**LAW ENFORCEMENT—YOU MUST TRY TO GET A STATEMENT—READ DEFENDANT HIS MIRANDA RIGHTS AND GIVE IT A SHOT!!** Any statement is better than no statement. If he asks for a lawyer—so what? At least you tried! Note: if you are not law enforcement or acting at the request/direction of law enforcement, don't worry about Miranda rights. Document everything the abuser says, when he said it and to whom.

**NON-LAW ENFORCEMENT—DOCUMENT ANYTHING A POTENTIAL ABUSER SAYS TO YOU, INCLUDING TIME, DATE AND PLACE OF THE STATEMENTS AND WHO WAS PRESENT WHEN THE STATEMENTS WERE MADE. YOU COULD BE ASKED TO TESTIFY AT TRIAL ABOUT WHAT THE ABUSER SAID TO YOU.**

## 6. EXPERT MEDICAL OPINION

Try to obtain a "release" from the victim so you can speak with her doctor(s) and obtain medical records. Otherwise, subpoena all medical records including x-rays and photos.

- **TO EXPLAIN FORCE REQUIRED TO INFLICT INJURY**
- **TO GIVE EXPERT OPINION** as to whether injury is consistent with the way defendant (or witness) claims it was sustained.

## 7. CHECK FOR PAST POLICE REPORTS AND OOPS

Check other jurisdictions/counties/precincts in which the defendant lived for previous history of abuse:

- \*With this victim
- \*With other victims

## 8. DOCUMENTARY EVIDENCE

Think about what is relevant to your case. Here are some examples:

- \*Defendant's prison records for present and past cases;
- \*Defendant's prison visitation and phone records [and recordings of calls if available in your jurisdiction;
- \*Defendant's home and cell phone records;
- \*Defendant's parole/probation records
- \*APS files
- \*Court records—Family Court, local Criminal Court, and Superior Courts [criminal and matrimonial], etc.
- \*Previous 911 calls
- \*Police/court records from other jurisdictions
- \*Prior OOPs from this and other jurisdictions—involving anyone [relevant to defendant's knowledge and understanding of Orders of Protection, as well as his intent to violate them.]
- \*Does the defendant have Power of Attorney for the senior or is he a beneficiary on a will?  
Get the documents. Speak to the attorney who drafted the documents.

## 9. SEIZE ALL MEDICATIONS/DOCUMENT MEDICAL INFORMATION

If possible, obtain the names and contact info for all medical personnel who treated the victim both now and in the past including private doctors and hospitals. Specifically, you are looking for repeated injuries in past or for a *lack of medical attention* which may be evidence of neglect in elder abuse cases. \*\*Did victim have regular doctor visits until defendant entered picture??

If possible, obtain information regarding past and present medications taken by victim, as well as the pharmacy from which they were obtained. This includes not only prescribed medications, but homeopathic and over-the-counter remedies as well. Certain combinations of remedies, when not monitored by a physician, can be deadly.

Seize all medications found in the home including prescribed medications, as well as homeopathic and over-the-counter remedies if the senior is being taken to the hospital. If victim or caretaker claims that medications are needed, then a doctor should be consulted to determine if the medications or combination of medications are dangerous. If they are not seized, then photographs of and notes about the medications should be taken.

## 10. ANIMAL ABUSE

- **DID DEFENDANT EVER INJURE OR KILL A FAMILY PET?**
- **DID DEFENDANT EVER THREATEN TO KILL OR INJURE A PET?**

\*Animal abuse is an effective way to **TERRORIZE** a victim. If the defendant did injure or kill a pet, *contact your local ASPCA Police or the Humane Society*. Photograph the injuries. Have a veterinarian examine the pet, whether it's dead or injured. Charge the appropriate animal abuse charges. Injuring or killing a pet is proof of the message the abuser is sending to the victim--if I could do this to an animal, imagine what I can do to you!

- **DOES THE PET APPEAR TO BE NEGLECTED?**  
Is the pet underfed, dehydrated or need of medical attention? Often, when an animal is neglected, so is the senior citizen.

## KNOW YOUR STATE'S ANIMAL CRUELTY CHARGES!

## 11. DEFENDANT'S BACKGROUND

Document anything you discover about the defendant, including:

- **PSYCHIATRIC HISTORY/HOSPITALIZATION?**
- **DRUG/ALCOHOL ABUSE?**
- **SPECIAL MEDICATIONS?** Are there any special medications at the house? If so, what type?

**This checklist is only an example of the evidence which should be sought in an elder abuse investigation. It is important not only to be creative, but to use your common sense. Sometimes in elder abuse cases, the evidence of abuse/neglect may not be immediately obvious. You must ask yourself why a particular situation bothers you. Why do you suspect that a senior is being abused?**

**\*\*FYI: When documenting anything, be as accurate as possible!** Documenting observations, conversations, statements and other relevant information not only helps refresh your memory later in the investigation or at trial, but avoids cross-examination problems at trial.

**GOOD LUCK—AND BE SAFE!**