

Elder Abuse: Prevention through Prosecution

Physical Abuse

Neglect

Psychological Abuse

Financial Abuse

Sexual Abuse



Stop Elder ABUSE.

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RECOGNIZE the SIGNS of ELDER ABUSE

Physical Abuse

- Unexplained signs of injury such as bruises, welts, scars, broken bones or sprains
- Report of drug overdose or apparent failure to take medication regularly
- Broken eyeglasses or frames
- Signs of being restrained, such as rope marks on wrists
- Caregiver's refusal to allow you to see the person alone
- Physical or chemical restraints for caregiver's convenience

Emotional Abuse

- Threatening, belittling, or controlling caregiver behavior that you witness
- Behavior from the elder that mimics dementia, such as rocking, sucking, or mumbling

Sexual Abuse

- Bruises around breasts or genitals
- Unexplained venereal disease or genital infections
- Unexplained vaginal or anal bleeding
- Torn, stained, or bloody underclothing

Neglect by Caregivers or Self-Neglect

- Unusual weight loss, malnutrition, dehydration
- Untreated physical problems, such as bed sores
- Unsanitary living conditions: dirt, bugs, soiled bedding and clothes
- Dirty or unbathed
- Unsuitable clothing or covering for the weather
- Unsafe living conditions (no heat or running water; faulty electrical wiring, fire hazards)
- Desertion of the elder at a public place

Financial Exploitation

- Significant or unauthorized withdrawals from the elder's accounts
- Sudden changes in the elder's financial condition
- Items or cash missing from the household
- Suspicious changes in wills, power of attorney, titles, and policies
- Addition of names to the elder's signature card
- Unpaid bills or lack of medical care, although the elder has enough money to pay for them
- Financial activity the elder couldn't have done, such as an ATM withdrawal by a bedridden account holder
- Unnecessary services, goods, or subscriptions

Healthcare Fraud and Abuse

- Duplicate billings for the same medical service or device
- Evidence of overmedication or undermedication
- Evidence of inadequate care when bills are paid in full

California Welfare & Institutions Code § 15610.07

- An Elder is a person 65 years or older.
- A dependent adult is any person 18 to 64 years who has physical or mental limitations which prevent them from carrying out activities or render them unable to protect their rights, including persons who are physically or developmentally disabled. Also, anyone who has been admitted to an inpatient 24 hours facility.

Under California law, "Abuse of an elder or a dependent adult" means either of the following (causing or allowing):
(a) Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering.
(b) The deprivation by a care custodian of goods or services (care) that are necessary to avoid physical harm or mental suffering.

REPORTING SUSPECTED ABUSE

Elder Abuse Hotline at **1-877-477-3646** or **1-800-992-1660** to report allegations of abuse when you are unsure on where to call.

Adult Protective Services, County of Los Angeles, **1-888-202-4248** if you suspect elder abuse in the community. Call 213-351-5401 if you are outside of Los Angeles County.

Long-Term Care Ombudsman, at WISE & Healthy Aging **1-800-334-9473** and report suspected abuse occurring at board and care homes, nursing homes and assisted living facilities in LA County. Statewide Ombudsman after hours crisis line: 1-800-231-4024.

California Attorney General Bureau of Medi-Cal Fraud & Elder Abuse: On-line complaint form: www.ag.ca.gov/bmfea **1-800-722-0432**

RESOURCES for SURVIVORS

- Los Angeles County District Attorney Victim-Witness Assistance:
<http://da.co.la.ca.us> 1-800-380-3811 or 1-626-927-2500
- Ageless Alliance <http://agelessalliance.org>
(uniting against elder abuse through awareness, support and community engagement)

Domestic Violence

- National Domestic Violence Hotline 1-800-799-7233
- Domestic Violence Hotline Southern California 1-800-978-3600
(callers may receive help in 13 languages)
- Jewish Family Service Family Violence Project 1-818-505-0900
- VINE- Victim Information and Notification Everyday
(a service by the Los Angeles County Sheriff's Department to notify you when the status of an inmate changes) 1-877-846-3452

Mental Health

- County of Los Angeles Department of Mental Health, Older Adult Services ACCESS Center
Help regarding hoarding and other mental health issues: 1-800-854-7771
- National Suicide Prevention Lifeline 1-800-273-8255

RESOURCES to FIGHT ABUSE



Mobile Apps: Available for Download on the Android and iPhone App Store

- 368+: Elder and Dependent Adult Abuse Guide for CA Law Enforcement
- GEAR: A Guide for Elder Abuse (includes practical information on abuse, tools, resources, and ways to report abuse)

General Information

- City of Los Angeles Department of Aging and Information and Assistance: 1-213-252-4030
- County of Los Angeles Area Agency on Aging: 1-800-510-2020
Department of Community and Senior Services: www.css.lacounty.gov 1-213-738-4004
- Los Angeles County Information and Referral, for senior services dial: 211
www.infoline-la.org
- WISE & Healthy Aging Information & Referral for senior services: 1-310-394-9871 ext. 464

Social Security Administration

- www.socialsecurity.gov Fraud Hotline: 1-800-269-0271

Legal Assistance

- Bet Tzedek Legal Services: www.bettzedek.org 1-323-939-0506
- California State Attorney General: www.oag.ca.gov 1-800-952-5225
- Legal Aid Foundation of Los Angeles: www.lafla.org 1-800-399-4529
- Los Angeles City Attorney's Office Elder Abuse Hotline: 1-877-477-3646
- Los Angeles County Bar Association Lawyer Referral & Information: www.lacba.org 1-213-243-1525
- Los Angeles County District Attorney Elder Abuse Section: 1-213-580-3383
- Los Angeles County Public Administrator – Public Guardian: 1-213-974-0515
- CANHR State Bar Certified Lawyer Referral Service: 1-800 474-1116

Medicare or Medi-Cal Fraud

- California Attorney General Bureau of Medi-Cal Fraud & Elder Abuse: 1-800-722-0432
On-line complaint form: www.oag.ca.gov/bmfea
- Center for Health Care Rights/California Health Advocates: www.cahealthadvocates.org
Health Insurance Counseling and Advocacy Program (HICAP)
Medicare and healthcare counseling: 1-800-434-0222
- Department of Health Services for Medi-Cal fraud 1-800-822-6222
- U.S. Health & Human Services TIPS Hotline to report Medicare fraud: 1-800-447-8477



Financial Fraud and Exploitation

Credit Card Fraud

If you are working with a victim of identity theft, they can call these agencies to freeze new accounts being opened in their name and for disputes regarding their credit record.

Experian: www.experian.com

1-888-397-3742

Equifax: www.equifax.com 1-800-525-6285

TransUnion: www.transunion.com

1-800-680-7289

Free Annual Credit Report:

www.annualcreditreport.com

1-877-322-8228

Mail Fraud

U.S. Postal Inspection Service – report mail fraud: <http://postalinspectors.uspis.gov>

1-877-876-2455

Opt-out from unsolicited mail, pre-

approved credit card and insurance offers:

1-888-567-8688

Direct Marketing Association Inc. – remove name from mailing & emailing list:

www.dmachoice.org

Telephone Fraud

Federal Trade Commission (FTC) – telemarketing fraud/identity theft:

1-877-382-4357

Do Not Call Registry – stop telemarketers from calling: www.donotcall.gov

1-888-382-1222

Internet Crime / Spam

Internet Crime Complaint Center: www.ic3.gov

Brokers/Investments Fraud

California Department of Corporations
Seniors Against Investment Fraud (SAIF):
1-866-275-2677

Concerns about brokers, investment advisers, financial planners, mortgage lenders and bill payers: www.corp.ca.gov

Financial Industry Regulatory Authority (FINRA) BrokerCheck – check the background of a broker or brokerage: 1-800-289-9999

Consumer Issues

California Department of Consumer Affairs – check licenses for doctors, nurses and other healthcare professionals: www.dca.ca.gov
1-800-952-5210

California Department of Insurance – insurance concerns: www.insurance.ca.gov
1-800-927-4357

California Department of Real Estate – real estate concerns: www.dre.ca.gov
1-213-620-2072

California Public Utilities Commission – utility complaints: www.cpuc.ca.gov/puc
1-800-649-7570

Contractors State License Board – concerns regarding licensed and unlicensed contractors: www.cslb.ca.gov 1-800-321-2752

Los Angeles County Department of Consumer Affairs – landlord/tenant issues, housing discrimination, homebuyer issues, consumer complaints: www.dca.lacounty.gov
1-800-593-8222 or 1-213-974-9778

PENAL CODE SECTIONS

Domestic Violence

273.5 – Any person who willfully inflicts injury upon: Spouse or former spouse; Cohabitant or former cohabitant; Fiancé, or someone with whom offender has or had a dating relationship; Mother or father of offender's child

242/243e – Battery against any of the above people without causing injury

242/243d – Battery with Serious Bodily Injury

245a1 – Assault with a Deadly Weapon, other than firearm

417a1 – Brandishing with a Deadly Weapon, other than firearm

245a2 – Assault with a Deadly Weapon, firearm

417a2 – Brandishing with a Deadly Weapon, firearm

245a4 – Assault with Force Likely to Produce Great Bodily Injury

Elder Abuse

368b – Elder Abuse likely to produce great bodily injury or death

368c – Elder Abuse other than that likely to produce great bodily injury or death

243.25-Battery on an elder or dependent adult

Miscellaneous

422 – Criminal Threats: 203 – Mayhem; 206 – Torture

Penalty Enhancement

667.9 – a. 1 year sentencing enhancement for the following crimes against elders or dependent adults: mayhem, kidnapping, robbery, carjacking, rape, spousal rape, sodomy, oral copulation, sexual penetration, burglary of the first degree ; b. 2 year sentencing enhancement with prior conviction for any of the offenses listed above

368 – If an elder or dependent adult suffers great bodily injury during the commission of felony elder abuse, an additional term in state prison applies as follows: Three years if the victim is under 70; Five years if the victim is 70 or older. If the abuse causes death, an additional term in state prison applies as follows: Five years if the victim is under 70; Seven years if the victim is 70 or older

Stalking & Harassment Statutes

646.9 – Stalking- Any person who maliciously and repeatedly: Follows or harasses; Makes a credible threat with intent to place person in fear of safety; Harass – engage in course of conduct that alarms, annoys, torments and terrorizes.

Firearm Possession Crimes

CCP 527.9 – any person who is subject to a criminal protective order must surrender any firearm to local law enforcement, (or lawfully transfer or sell to licensed gun dealer) within 24 hours after service of order.

25850 – loaded firearm possession

25400 -- concealed firearm possession

26350 – open carrying of firearm

29805 – may not possess firearm if has specific misdemeanor conviction within 10 years

Sexual Abuse in Later Life Statutes

207b – Kidnapping for Lewd Act on Adult

209b1 – Kidnapping to Commit Sex Crime

220 – Assault with Intent to Commit Forcible Sex Crime

314(1) - Indecent Exposure

261(a) (1) – Rape of Incompetent Adult

261(a)(2) – Forcible Rape

261(a)(3) – Rape by intoxicant, anesthetic or controlled substance

261(a)(4) – Rape of Unconscious Victim

286(c)(2) – Forcible Sodomy

286(f) – Sodomy of Unconscious Victim

286(g) – Sodomy of Incompetent Victim

286(h) – Sodomy of Incompetent Victim by Fellow Patient in State Mental Hospital

289(a)(2) – Forcible Sexual Penetration

289(b) – Sexual Penetration of Incompetent Victim

298(c) – Sexual Penetration of Incompetent Victim by fellow Patient

289(d) – Sexual Penetration of Unconscious Victim

289(e) - Sexual Penetration by Intoxicant

Crimes of Neglect

Neglect is the refusal or failure to fulfill any part of a person's obligations or duties to an adult

- Failure to pay for necessary home care services; and or
- Failure to provide necessary care- Necessities- food clothing, shelter or medical attention, medicine, comfort, personal safety and other essentials, including, an implied or agreed upon responsibility to an elder. Note: There must be a duty to care for the victim in this crime.

California Penal Code Section 368 (b) and (c)

Failure of an Adult child to Provide for Indigent Parent

A rarely used Penal Code section which requires Adult child who has the ability to provide, but fails to provide necessary food, clothing, shelter or medical attention for an indigent parent, is guilty of a misdemeanor (Penal Code Section 270©)

Financial Exploitation

Penal Code 368 (d) Elder Financial Abuse by Non-Caretaker

- Any Person
- Theft and enumerated forms: PC 484 and 490a; Larceny; Fraud; False pretenses; Trick or Device; Embezzlement; Forgery; Fraud; ID Theft per PC 530.5; Of elder or dependent adult (status should reasonable be known to perpetrator); Value over \$950.00 (Felony); Value under 950.00 Misdemeanor.

Penal Code 368 (e) Elder Financial Abuse by Caretaker

- "Caretaker" a person who has the care, custody, or control of, or who is in a position of trust with, an elder for dependent adult.
- Same elements as Theft
- Also status of the victim is known to abuser
- Monetary Thresholds the same as 368 (d) and same punishments.
- Traditional Financial Crimes: Robbery, PC 211; Burglary, PC 459; Vandalism PC 594; Graffiti PC 594.
- Forgery-PC Sections 470, 476, 186 including 470 a (driver's license or identification card) or 470 (b) (possession of a forged ID); Forgery of records/ returns PC 471; and Medical Records, PC 471.5, Forgery of seals, PC 472 and telephone and telegraph messages, PC 474.
- Grand Theft- PC 487, Petty Theft 484 and Petty with a Prior 666/484; Credit Card Theft 484 d-j and Receipt of Stolen Property, PC 496
- Other types of Fraud include Computer Fraud and tampering with computers within PC 502 et seq.
- Identity Theft and all of its related crimes within PC 529-532 et seq.
- Money Laundering PC 186.10
- NOTE THAT THE ENHANCEMENT WHICH IMPACT CRIMES AGAINST ELDERS ARE USEFUL TO LAW ENFORCEMENT and can provide for increase incarceration when the monetary losses are more. i.e. Felony theft/ embezzlement/extortion (PC 502.9/515/525) against an Elder/Dependent Adult as defined by 368 is a factor in aggravation for sentencing.