

# TRAINER MANUAL



Investigating APS Criminal  
Cases: An Advanced Course



Creating experiences that transform the heart, mind and practice.



**This training was developed by the Academy for Professional Excellence, with funding from the California Department of Social Services, Adult Programs Division.**



**Curriculum Developer, 2019  
Candace Heisler, JD**

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## INTRODUCTION

### THE ACADEMY FOR PROFESSIONAL EXCELLENCE

We are pleased to welcome you to the Investigating APS Criminal Cases: An Advanced Course Trainer Manual, developed by APSWI, a program of the Academy for Professional Excellence under a grant from the California Department of Social Services, Adult Programs Division.

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

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

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

APSWI's partners include:

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

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the County Welfare Director's Association  
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## ACKNOWLEDGEMENTS

This training is the result of a collaborative effort between Adult Protective Services administrators, supervisors, staff development officers and workers across the state and the nation; professional educators; and the Academy for Professional Excellence staff members. APSWI would like to thank the following individuals and agencies:

### Agencies

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

### Regional Curriculum Advisory Committee

Ralph Pascual, Human Services Administrator I, Los Angeles County  
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LaTanya Baylis, Training and Development Specialist,  
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Penny Jacobo, APS Supervisor, San Diego County

### Committees

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

### Curriculum Developer 2019

Candace Heisler, JD

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## HOW TO USE THIS MANUAL

- Training topics are in **bold** with expected time.
- Actions which the trainer takes during the training are written in **bold**.
- The Trainer Manual and Participant Manual differ in page numbers. It's suggested you make note of activities and handout page numbers from the Participant Manual for ease.

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

**Use of language:** Throughout the manual, client is used most to describe the individual at the center of the APS investigation. However, if concept or material was directly quoted from copyrighted material, the term victim is used. Also, alleged perpetrator is used to describe the person alleged to have committed the abuse or neglect. However, if concept or material was directly quoted from copyrighted material, the term abuser is used.

He and she has been replaced with the gender-neutral they throughout this manual, unless quoted from copyrighted material. This should not be thought of as plural persons, but rather a gender-neutral term describing all humans.

### **Customizing the Power Point:**

This manual is set up so that the trainer script/ background material is on the same page as the accompanying Power Point slide.

#### **Hide a slide instructions:**

1. On the **Slides** tab in normal view, select the slide you want to hide.
2. On the **Slide Show** menu, click **Hide Slide**.

The slide number will have line through it to show you have hidden it.

**NOTE:** The slide remains in your file even though it is hidden when you run the presentation.

The course outline, provided in the next section of this manual, is the class schedule used during the piloting of this training. It can be used to help determine how much time is needed to present each section. However, times will vary based on the experience and engagement of the audience.

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

## TRAINER GUIDELINES

**This advance training must be facilitated by someone with considerable experience working in the Criminal Justice System, including expertise with testifying and the courtroom process. It may also be helpful to have an APS Trainer co-facilitate as well.**

<b>Teaching Strategies</b>	<p>The following instructional strategies are used:</p> <ul style="list-style-type: none"> <li>◆ Lecture segments</li> <li>◆ Interactive exercises (e.g., Table Top Activities, experiential exercises, role plays)</li> <li>◆ Question/answer periods</li> <li>◆ Slides</li> <li>◆ Participant Manual (encourages self-questioning and interaction with the content information)</li> </ul>
<b>Materials and Equipment</b>	<p><b>The following materials are provided and/or recommended:</b></p> <ul style="list-style-type: none"> <li>◆ Computer with LCD (digital projector)</li> <li>◆ USB or other storage device with the slide presentations</li> <li>◆ Easel/Flipchart paper/markers/highlighters</li> <li>◆ Printed Copies of Sample Documentation (in Trainer Manual Only, need copies for each participant)</li> <li>◆ Video Clips on USB or saved to computer (Mary 911 call, My Cousin Vinny)</li> <li>◆ Trainer Manual: This manual includes the course overview, introductory and instructional activities, and reference materials.</li> <li>◆ Participant Manual: This manual includes a table of contents, course introduction, and all training activities/handouts, expect the aforementioned Sample Documentation.</li> <li>◆ Name tags/names tents</li> <li>◆ Water access/snacks/restroom access/lunch plans</li> </ul>

**Trainer Note: This curriculum addresses APS’s common need to work across disciplines, specifically with the Criminal Justice System, including Law Enforcement. When working across disciplines, there are inherent challenges such as personality differences, turf issues, bias, ageism, cultural concerns, etc. APS professionals may have their own personal or professional experiences with Law Enforcement and as a Trainer, it’s important to have that mindfulness.**

## Executive Summary

### **Course Title:** *Investigating APS Criminal Cases: An Advanced Course*

This interactive and challenging training course is designed to advance skills learned in the Module 22 Core Curriculum about responding to criminal cases in ways that serve the program needs of APS, assist clients, and support a criminal prosecution in appropriate cases. The goal is **not** to make APS professionals part of the Criminal Justice System but to better prepare participants to recognize, document, and support cases in which a client has been the victim of a crime. How APS handles its investigation can profoundly affect whether a crime can be prosecuted. This course is intended to better prepare APS for such situations, including when APS professionals are called to testify as witnesses in various types of courts.

The following instructional strategies are used throughout the course: short lectures (lecturettes), interactive activities/exercises including individual, class and small group discussions; many of which are built around case studies, PowerPoint slides, resource material, applications for use in practice, and video clips to stimulate discussion and skill development.

### **Course Requirements:**

This course was specifically designed to build upon concepts explored and mastered in NAPSA Core Curriculum Module 22. Participants should complete Module 22 (ILT or eLearning) prior to attending this course which is available at <https://theacademy.sdsu.edu/programs/apswi/core-competency-areas/>.

Experienced APS professionals with at least 18 months of field experience who have worked with the Criminal Justice System may have sufficient expertise to benefit from this Advanced Course. Those individuals should complete the Core Curriculum or complete the Self-Assessment found at <https://theacademy.sdsu.edu/programs/apswi/advanced-training/investigating-aps-criminal-cases-ilt/> to assure that they have the foundational information required for this Advanced Course. *Please note that all participants are expected fully to participate in a variety of class activities designed to enhance the learning experience and reinforce the content as well as to evaluate the effectiveness of the content.*

### **Target Audience:**

This course is designed for APS professionals, including Supervisors and Training Staff who have completed the Module 22 Core Curriculum. It is also designed for experienced APS professionals with demonstrated knowledge of and experience working with the criminal justice system as well as Aging and Adult Services partners such as IHSS, Long Term Care Ombudsman, etc.

### **Course Training Goal:**

To improve APS professional's documentation, increase their ability to investigate allegations alleging criminal conduct including exploring justifications and defenses, and provide better understanding of the court process, and their role in it.

**Outcome Objectives for Participants:**

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

1. Describe the role of APS professionals in cases in which a client has been the victim of a crime
2. Enhance the APS professional's understanding of the relationship between effective documentation and likelihood the case will result in filing of charges and prosecution
  - a. Identify the elements of effective documentation
  - b. Describe the link between effective documentation by an APS professional and later testifying in a court case
3. Describe relevant defenses to various forms of older and vulnerable adult abuse
4. Demonstrate the ability to read and understand a criminal statute and identify its elements
5. Demonstrate the ability to evaluate a fact pattern to prove the elements of a crime
6. Understand the role of the APS professional in a court setting and describe the elements of effective court testimony

## COURSE OUTLINE

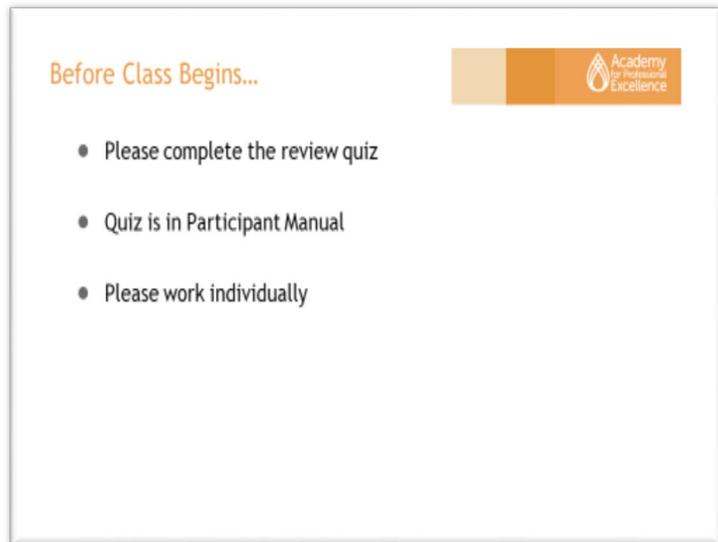
<b><u>CONTENT</u></b>	<b><u>MATERIALS</u></b>	<b><u>TIME</u></b>
<b>WELCOME, INTRODUCTIONS, COURSE OVERVIEW</b>	<i>Activity #1- /Handout #1- Review Quiz</i>	<b>TOTAL: 30 minutes</b>
<i>Activity #2-Lessons from Core (Large Group)</i>		<i>10 min</i>
<b>THE ROLE OF APS IN A CASE THAT MAY INCLUDE CRIMINAL CONDUCT</b>		<b>TOTAL: 30 minutes</b>
<i>Activity #3-Sort the tasks (Large group or Table Groups)</i>	<i>Task Labels and Chart Paper</i>	<i>10-15 min</i>
<b>DOCUMENTATION</b>		<b>TOTAL: 65-70 minutes</b>
<i>Lecturette: Elements of Effective Documentation</i>	<i>Flip Charts</i>	<i>5-10 min</i>
<i>Lecturette: Admissibility of Information</i>		<i>10 min</i>
<i>Activity #4- Documentation (Part 1) (Individual)</i>	<i>Handout #2</i>	<i>5 min</i>
<b>BREAK</b>		<b>15 minutes</b>
<i>Activity #5- Documentation (Part 2) (Table Groups)</i>	<i>Chart Paper</i>	<i>10 min</i>
<i>Activity #6- Documentation (Part 3) (Table Groups)</i>	<i>Handout #2, Participant Manual, Handout #3-Sample Documentation (from Trainer)</i>	<i>10 min</i>
<i>Lecturette: Spontaneous Statements/Excited Utterances</i>		<i>5 min</i>
<i>Activity #7- Documenting Ms. Mary</i>	<i>Video clip, Handout #4</i>	<i>5 min</i>
<b>DEFENSES AND JUSTIFICATIONS</b>		<b>TOTAL: 45-60 minutes</b>
<i>Activity #8: Anticipating Defenses (Part 1) (Table Groups)</i>	<i>Assigned allegation, chart paper</i>	<i>7-10 min</i>

<i>Activity #9: Anticipating Defenses (Part 2)</i> <i>(Table Groups)</i>	<i>Assigned allegation, chart paper, Handouts #5 &amp; #6</i>	<i>15-20 min</i>
<b>LUNCH</b>		<b>TOTAL 60 minutes</b>
<b>TESTIFYING IN COURT</b>		<b>TOTAL: 30-40 minutes</b>
<i>Activity #10: Documentation and Cross Examination (Part 1)</i> <i>(Dyads)</i>	<i>Handout #2, Handout #7</i>	<i>10 min</i>
<i>Activity #11: Documentation and Cross Examination (Part 2)</i> <i>(Large Group)</i>	<i>Handout #3</i>	<i>10 min</i>
<i>Lecturette: Court Process</i>	<i>My Cousin Vinny Video clip(s)</i>	<i>10-15 min</i>
<i>Activity #12: Mock Direct</i> <i>(Large Group)</i>	<i>Handouts #8 &amp; #9</i>	<i>7-10 min</i>
<b>BREAK</b>		<b>TOTAL 15 minutes</b>
<b>CRIMES AND ELEMENTS</b>		<b>TOTAL 60-70 minutes</b>
<i>Lecturette: PC 338</i>	<i>Handout #10</i>	<i>10 min</i>
<i>Activity #13: Mary and Mark (Part 1)</i> <i>Table Groups</i>	<i>Handout #11 &amp; Handout #12</i>	<i>25 min</i>
<i>Activity #14: Proving the Elements</i> <i>(Large Group)</i>	<i>Handout #13</i>	<i>10-15 min</i>
<i>Activity #15: Mary and Mark (Part 2)</i> <i>(Individually)</i>	<i>Handout #12 &amp; #13, chart paper</i>	<i>15 min</i>
<i>Activity #16: Mary and Mark (Part 3)</i> <i>(Individually) (Large Group)</i>	<i>Participant Manual</i>	<i>10 min</i>
<b>WRAP-UP AND EVALUATIONS</b>		<b>TOTAL: 20 minutes</b>
<b>TOTAL TIME (INCLUDING BREAKS AND LUNCH)</b>		<b>7 hours</b>

## Welcome and Introductions

### Time Allotted: 30 minutes

#### Slide #2: Welcome



Before Class Begins...

- Please complete the review quiz
- Quiz is in Participant Manual
- Please work individually

Academy of Professional Excellence

On chart paper/white board ask participants to complete Review Quiz, found in the Participant Manual, as they arrive.

**Trainer Note: Handout #1b has the answers, located at the end of this manual.**

**Welcome** participants to the class making these points:

- This class builds on the information contained in the Instructor Led and eLearning Core Module #22, “Working with the Criminal Justice System” which is a pre-requisite to this course for newer APS professionals. For experienced APS staff, the content may be more difficult if they didn’t take the core. **Inform** participants seats will be arranged based on experience in the room (e.g. putting 2 folks who took Core with 1 or 2 who didn’t)
- Training will review certain concepts from the Core Curriculum and introduce new content such as addressing defenses and courtroom testimony.
- Training was developed at the suggestion of prior participants who wanted further opportunities to improve their understanding of the Criminal Justice System lens on older and vulnerable adult abuse cases.

**Trainer Note: If necessary, give 5 minutes at beginning of training to complete the Review Quiz.**

**REVIEW QUIZ****HANDOUT #1a**

1. Select the four components of the Criminal Justice System that APS works most often with:
  - a. Prosecution
  - b. Corrections
  - c. Judge
  - d. Victim Witness Assistance Program
  - e. Defense Attorneys
  - f. Law Enforcement
  - g. All of the above
2. What APS calls a “client”, the Criminal Justice System calls a \_\_\_\_\_.
3. What APS calls an A/P, A/A, or suspected abuser, the Criminal justice System calls a \_\_\_\_\_.
4. The person who represents someone accused of a crime with a duty of loyalty to that person is a \_\_\_\_\_.
5. The standard of proof for APS to confirm or sustain an allegation is
  - a. Reasonable suspicion
  - b. Preponderance of evidence
  - c. Clear and convincing evidence
  - d. Beyond a reasonable doubt
6. Crimes are composed of building blocks called \_\_\_\_\_.
7. The burden of proof for a prosecutor to prove a case is
  - a. Reasonable suspicion
  - b. Preponderance of evidence
  - c. Clear and convincing evidence
  - d. Beyond a reasonable doubt
8. The three types of evidence to build a case are witnesses, confessions and admissions, and \_\_\_\_\_.
9. The strongest way to build an older or vulnerable adult abuse case is:
  - a. Victim-based
  - b. Defendant/suspect-based
  - c. Evidence-based
10. Reasonable suspicion is:
  - a. Evidence sufficient to allow law enforcement to make an arrest
  - b. Sufficient evidence to place an offender on a state registry
  - c. Strong evidence of guilt
  - d. Unverified information sufficient to initiate an investigation

11. The Criminal Justice System is:
- Client focused
  - Victim focused
  - Offender focused
  - Child focused
12. APS documentation:
- Should be sufficient to refresh the APS witness' memory for court
  - Is a measure of the professionalism of the APS staff member
  - May be admitted in a criminal court
  - Should be provided to the prosecutor in a criminal case to permit the prosecutor to meet discovery requirements
  - All of the above
13. APS investigators should focus on the \_\_\_\_\_ and \_\_\_\_\_ from the start of their investigation.
- What
  - Motive
  - How
14. How many elements of a crime must be proven to meet the beyond a reasonable doubt legal standard of proof?
- Most
  - More than Half
  - All
  - Half
15. In the following Crime Statute, CA Penal Code 273.5, select the first element that has to be proven:
- Any person who willfully inflicts corporal injury resulting in a traumatic condition upon.. [the offender's spouse or former spouse; cohabitant or former cohabitant; fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, or the mother or father of the offender's child...is guilty of a felony.*
- Corporal injury
  - With intent to harm
  - Spouse or former spouse
  - Making unwanted physical injury

**Slide #3: Housekeeping**

Welcome and Housekeeping Details



- Cell phones on silent or vibrate
- Location of restrooms and emergency exits
- Schedule
  - 1 break in morning and one in afternoon
  - An hour for lunch
- Course Materials
  - PowerPoint handout/ Participant Manuals



Cover the following:

- Cell phones on silent or vibrate
- Location of restrooms and emergency exits
- Schedule
  - 1 break in morning and one in afternoon
  - An hour for lunch
- Please help us keep on schedule

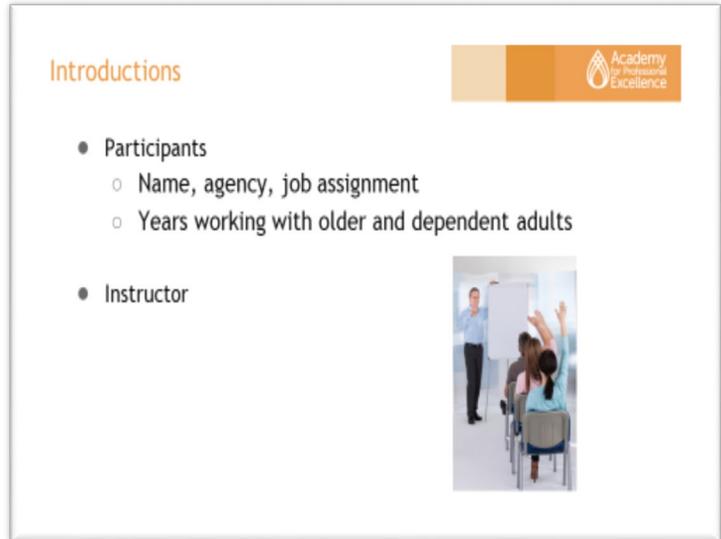
**Review** course information and materials

- Registration information
- Class is interactive with small and large group activities
  - Please share in the work—note taking and reporting out
- Materials
  - PowerPoint is in the Participant Manuals with accompanying handouts

**Explain** that this curriculum will refer to clients as older and vulnerable adults so it is clear that an APS program may use any of these terms or others to describe the client and/or statutes may do so. Criminal Justice System will be abbreviated to “CJS” throughout the materials.

Curriculum will also use terminology of the Criminal Justice System such as “Victim” to refer to the APS client; “Suspect” and “Defendant” to refer to alleged perpetrator.

**Trainer Note: Use the term or terms that best match statutes or practice in a particular jurisdiction.**

**Slide #4: Introductions**The slide is titled "Introductions" in orange text. In the top right corner, there is a logo for the "Academy for Professional Excellence" which consists of a stylized orange flame icon and the text "Academy for Professional Excellence". The main content is a bulleted list: a primary bullet "Participants" with two sub-bullets "Name, agency, job assignment" and "Years working with older and dependent adults"; and a second primary bullet "Instructor". To the right of the "Instructor" bullet is a small photograph of a man in a light blue shirt standing at a whiteboard in a classroom, with a woman in a blue shirt seated at a table in the foreground with her hand raised.

Ask participants to introduce themselves:

- Participants
  - Name, agency, assignment
  - Years working with older/vulnerable adults

If desired, **count** the years of experience and announce the total number of years of experience in the class and **comment** that the group has considerable experience working with older and vulnerable adults and that may be helpful as participants work through the class content.

**Introduce** self(selves if co-facilitating):

- **Highlight** particular experience working in or with the Criminal Justice System, especially law enforcement and prosecution

**Trainer Note: Depending on class experience with course prerequisites, it's suggested to divide class up so each table has at least one person who has taken the Core Curriculum (Module 22). Explain this is to help with peer support during activities, which may pull directly from Core Curriculum.**

**Slide #5-7: Course Goals and Learning Objectives**

**Learning Objectives**

- Describe the role of APS professionals in cases in which a client has been a victim of a crime
- Enhance the APS professional's understanding of the relationship between effective documentation and likelihood case will result in filing of charges and prosecution
  - Identify elements of effective documentation
  - Describe the link between effective documentation by an APS professional and later testifying in a court case
- Describe relevant defenses to various forms of older/dependent adult abuse

**Course Goal**

Advance participant's skills and knowledge from Core Curriculum Module 22: "Working the Criminal Justice System".

This course will: improve APS professional's documentation, increase their ability to investigate allegations alleging criminal conduct, and provide better understanding of the court process and their role in it.

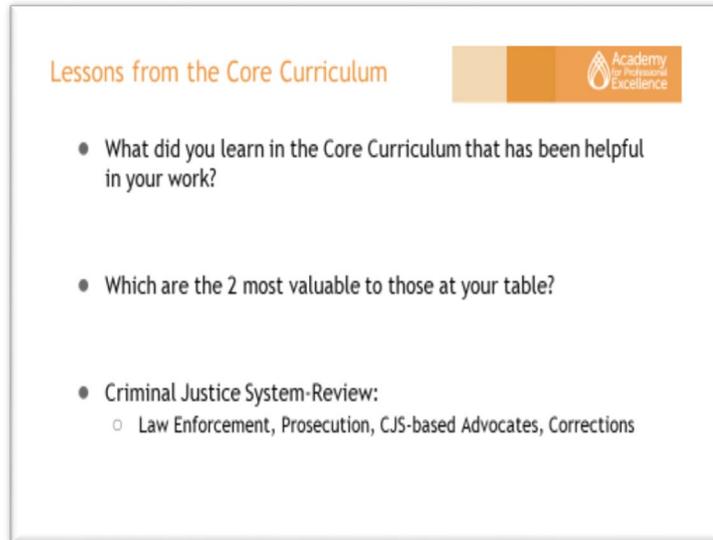
**Learning Objectives- (continued)**

- Demonstrate the ability to read and understand a criminal statute and identify its elements
- Demonstrate the ability to evaluate a fact pattern to prove the elements of a crime
- Understand the role of the APS professional in a court setting and describe the elements of effective court testimony

**Explain** that the Course Goal is to advance participants skills and knowledge from Core Curriculum Module 22: "Working the Criminal Justice System". This course will: improve APS professional's documentation, increase their ability to investigate criminal cases, and provide better understanding of the court process.

**Review** the following learning objectives:

1. Describe the role of APS professionals in cases in which a client has been a victim of a crime
2. Enhance the APS professional's understanding of the relationship between effective documentation and likelihood case will result in filing of charges and prosecution
  - a. Identify elements of effective documentation
  - b. Describe the link between effective documentation by an APS professional and later testifying in a court case
3. Describe relevant defenses to various forms of older/vulnerable adult abuse
4. Demonstrate the ability to read and understand a criminal statute and identify its elements
5. Demonstrate the ability to evaluate a fact pattern to prove the elements of a crime
6. Understand the role of the APS professional in a court setting and describe the elements of effective court testimony

**Slide #8: Lessons from Core**

**Lessons from the Core Curriculum**

- What did you learn in the Core Curriculum that has been helpful in your work?
- Which are the 2 most valuable to those at your table?
- Criminal Justice System-Review:
  - Law Enforcement, Prosecution, CJS-based Advocates, Corrections

**Activity #2: Lessons Learned (10 min)**

**Explain** that participants will work with their table groups for 5 min. to answer “What did you learn in the Core Curriculum that has been helpful in your work?”

**Report Out: (5 min)**

Ask each group to share their top two thoughts, and as you go around the room, each table should add one not previously shared.

**Trainer Note: If not everyone has taken the core curriculum, this may go rather quickly, or potentially longer if a lot of questions come out of it. This can also be a short table discussion followed by a brief report back or can be a brief class discussion.**

**Remind** the participants of the 4 entities of the Criminal Justice System that APS will work with most often. **Ask** if there are any questions.

- What is the Criminal Justice System?
  - Law enforcement
  - Prosecution
  - CJS-based advocates (such as Victim-Witness Assistance Program)
  - Corrections (probation and parole)

## THE ROLE OF APS IN A CASE THAT MAY INCLUDE CRIMINAL CONDUCT

**Time Allotted: 30 minutes**

**Slide #9: Who Does What?**

**Who Does What?**

Activity: Sort the Tasks

- APS, CJS, Both
- Some tasks may vary between jurisdictions

**Explain** we will review the roles of APS and the Criminal Justice System in handling a case that may include criminal elements.

### **Activity #3: Sort the Tasks (10-15 min)**

**Inform** participants they have lists of tasks that may be conducted by APS, or the CJS, or by both agencies.

**Acknowledge** that because APS programs vary between counties and States, there may be differences in what participants can and cannot do. However, generally, across the Nation, there are some similarities.

**Explain** they will work with their tables, and place different tasks or statements into one of three piles—APS and CJS and Both

**Trainer Note: This can be done in one of two ways. Option one is done in table groups and possibly better if experience with CJS is lower, or fewer participants took the Core training. Option two is done as a challenge with the large class and might work better as a quick review.**

Option 1: Table Groups:

**Give** each table a set of pre-made labels of tasks and 3 sheets of flip chart paper.

**Ask** the tables to title each flip chart as APS, CJS, and Both.

**Instruct** participants that they have 5 min to sort the tasks and tape them to the correct flip charts. They must come to an agreement on whose task belongs where.

**Report out** and discuss any differences in group's opinions.

Option 2: Large Group Challenge:

**Label** 6 flip charts: APS (2), CJS (2), Both (2) and **place** them on the walls, opposite of each other if possible.

**Divide** the group in half and **give** each group a set of pre-labeled tasks.

Continued

Inform the 2 groups that they have 5 min to sort the tasks and tape them to the appropriate group.

Let them know this is timed and the “winner” with the most correct tasks in the section gets “bragging rights”.

Discuss any discrepancies.

*List of Tasks/Roles (to be created prior to training as cards)*

#### *APS*

- *Confirm allegations*
- *Client-based system*
- *Standard of evidence is preponderance of evidence*
- *Client free to accept or reject resources*
- *Cannot involuntarily remove a person*

#### *CJS*

- *Establish elements of a crime*
- *Punishment and deterrence*
- *Proof beyond a reasonable doubt*
- *Offender-focused system*
- *Adversarial system*

#### *Both*

- *Cross report*
- *Document observations*
- *Write a report*
- *Interview victim*
- *Interview alleged perpetrator*

**Trainer Note: If you do not have the premade labels, write the tasks in random order on flip chart/white board for participants to recall. Having the tasks premade is helpful for tactical/kinesthetic learners and to get the tables up and moving.**

## Slide #10 and #11: Working Across Systems

**Working Across Systems:  
Joint Investigations**

- How many of you conduct joint investigations with law enforcement?
- How many have considered conducting such investigations?
- What are the benefits of a joint investigation?
- What are the challenges of conducting a joint investigation?

**Possible Benefits and Challenges**

Benefits	Challenges
<ul style="list-style-type: none"> <li>• Avoid duplication of effort</li> <li>• Law enforcement engaged in case from beginning</li> <li>• May capture scene as it appears at time of alleged conduct, including victim's appearance, suspect's demeanor and role in case</li> <li>• Victim and suspect's statements captured on officer's body camera (if LE has body cams)</li> <li>• Evidence is secured and collected by law enforcement</li> <li>• May act as deterrent to potential perpetrator that conduct is known and being monitored</li> </ul>	<ul style="list-style-type: none"> <li>• APS will be a witness to LE's actions at scene</li> <li>• Officers may arrest before all evidence and information needed by APS is known</li> <li>• Investigation will be seen as criminal case from beginning and APS may be viewed as arm of law enforcement</li> <li>• Client has no choice in whether s/he wants to be captured on body cameras -- raising privacy and confidentiality issues.</li> </ul>

**Trainer Note: If training in a county that does NOT do joint investigations with Law Enforcement, skip this page and 2 slides.**

**Ask:** "How many of you conduct joint investigations with Law Enforcement?"

If there are affirmative answers, **discuss** the following:

How are those investigations done?

What have they learned from doing joint investigations?

If no one has conducted joint investigations, **ask:** "How many have considered conducting such investigations?"

**Ask:** What are the benefits of a joint investigation?

Possible responses include: avoid duplication of effort; law enforcement engaged in case from beginning; may capture scene as it appears at time of alleged conduct, victim's appearance, suspect's role in case; statements made captured on officer's body camera (if LE has body cams); evidence is secured and collected by law enforcement; may act as deterrent to potential perpetrator that conduct is known and being monitored.

**Ask:** Are there possible problems associated with a joint investigation?

Possible responses: APS will be a witness to LE's actions at scene; officers may arrest before all evidence and information is known; investigation will be seen as criminal case from beginning and APS may be viewed as arm of law enforcement; and client has no choice in whether they want to be on camera (body cams/interview room cameras) raising privacy and confidentiality issues.

**Trainer Note: You should not express an opinion about whether a county should conduct joint investigations. The purpose of the discussion is to raise concerns to be shared with agency leadership and legal advisors.**

**Slide #12: How to Work Effectively and Collaboratively**

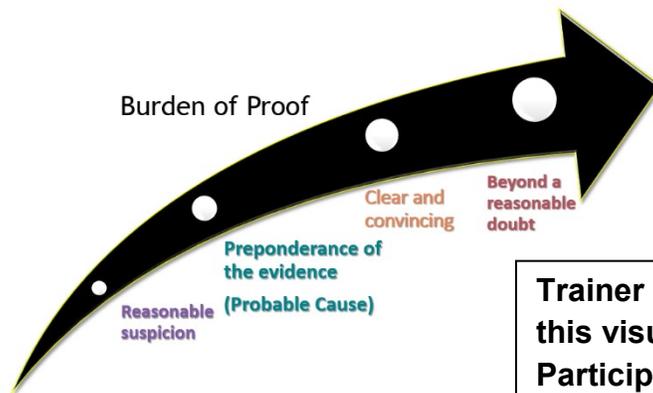


### How to Work Best Effectively & Collaboratively

- Understand the roles and principles of your system to “stay in your own lane”-assure that your client’s needs are addressed.
- Many intersecting roles between APS and CJS—you need one another to be most effective in meeting the needs of your clients
- Understand standard of proof/burden of proof for a prosecution and how different BRD is from preponderance.
- Importance of MOUS and protocols when there are concurrent or overlapping APS and CJS investigations Shared goals–
  - Protect client/victim and restore what has been taken from them
  - Offer rehabilitation to the alleged perpetrator/suspect-defendant
- There are many intersecting roles between APS and CJS—you need one another to be most effective in meeting the needs of your clients

**Review** these points:

1. Need to understand the roles and principles of your system to “stay in your own lane” and assure that your client’s needs are addressed.
2. There are many intersecting roles between APS and CJS—you need one another to be most effective in meeting the needs of your client.
3. Important to understand standard of proof/burden of proof for a prosecution and how different beyond a reasonable doubt (hereinafter BRD) is from preponderance of the evidence. The CJS evaluates APS information by a standard of BRD.
4. Importance of MOUS and protocols when there are concurrent or overlapping APS and CJS investigations, e.g., who photographs scene and any injuries; who collects what evidence, interview protocols for alleged abusers/suspects
5. Shared goals–
  - a. Protect older/vulnerable adult
  - b. Make person “whole” or restore what has been taken from them
  - c. Offer rehabilitation to the alleged perpetrator/suspect-defendant



**Trainer Note: Refer participants to this visual from Core, in their Participant Manual, as a reminder**

## DOCUMENTATION

### Time Allotted: 65-70 minutes

#### Slide#13: Documentation: What you Already Know

Documentation:  
What you Already Know





- What is one helpful hint or suggestion you would give to other APS professionals on the topic of documentation?
- What's different when documenting a case that may involve criminal conduct?

**Inform** participants that this section will dive deep into documentation and how it relates to the Criminal Justice System.

**Ask** participants to first take a moment (3 min) and **individually** write in their participant manuals the answers to the following prompts.

- What is one helpful hint or suggestion you would give to other APS professionals on the topic of documentation?
- What's different when documenting a case that may involve criminal conduct?

**Ask** for 3-4 volunteers to share 1 piece of advice.

**Ask:** for 3-4 volunteers to share one difference when documenting a case that may be criminal.

Possible responses: different goals and focus of investigations, CJS is focused on proving a crime, establishing proof BRD; much of information important to APS (e.g. social history, support system, client's income and eligibility for services) are irrelevant to CJS and may need to be redacted so personal information remains confidential, to capture statements of victim and witnesses; to establish the facts and who is the source of those facts; to obtain an alleged perpetrator's explanation for what has occurred; to memorialize APS professional's observations and conclusions, and refresh APS professional's memory if case goes to court.

## Slide #14: Documentation Specific to Criminal Cases

Documentation Specific to Criminal Cases 

- Criminal cases often turn on the strength of the documentation of all investigators, including APS and CJS
- Poor documentation likely means the case cannot be filed.
  - Poor documentation nearly always leaves gaps in information and proof
  - Defense in a criminal case will use these gaps to establish reasonable doubt if case is filed
  - Affects credibility and reputation of the writer in this case and for the future
  - Does not serve the APS client

### Discuss the following from the slide:

- Criminal cases often turn on the strength of the documentation of all investigators, including APS and CJS
- Poor documentation often means the case cannot be filed.
  - Poor documentation nearly always leaves gaps in information and proof
  - Defense in a criminal case will use these gaps to establish reasonable doubt if case is filed
  - Quality of the documentation affects credibility and reputation of the writer both in this case and in the future
  - Inadequate documentation does not serve the APS client's interests and needs

**Slide #15: Elements of Effective Documentation**

**Elements of Effective Documentation:**  
**Class Discussion**

What are the elements of effective APS documentation?

- Complete
- Accurate
- Factual
- Concise
- Neutral and objective



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**Shout-Out:**

**Ask:** “What are the elements of effective documentation?”

**Write down their answers on a flip chart (will use in the next teach back).**

**Cover** elements listed on PowerPoint slide

**Trainer Note: this slide is animated to hide the elements until shout-out is complete, allowing you to discuss any critical teaching points one-by-one. However, no need to teach to the slide, as the information is covered in the following slides.**

Teach back points: Effective documentation is:

- Complete
- Accurate
- Factual
- Concise
- Neutral and objective

## Slide #16: What the CJS Considers in Evaluating APS Documentation



### What the CJS Considers When Evaluating APS Documentation

- Clarity
  - **Unclear:** There were 3 people in the house. They told me the client was being taken advantage of.
  - **Clear:** I spoke with the client's son, James; the client's neighbor, Sally Martin; and the client's friend, Maria. James said that he reviewed his mother's bank account and found strange purchases his mother did not recall. Sally Martin said the client came over yesterday and said money was missing from her purse and the only one who had been in the house was caregiver, Mollie Mains.
- Completeness
- Contradictions
- Admissibility of the Information

### Cover the following:

- Clarity
  - Unclear Example: “There were 3 people in the house. They told me the client was being taken advantage of.”
  - Clear Example: “I spoke with the client’s son, James; the client’s neighbor, Sally Martin; and the client’s friend, Maria. James said that he reviewed his mother’s bank account and found strange purchases his mother did not recall, Sally Martin said the client came over yesterday and said money was missing from her purse and the only one who had been in the house was caregiver, Mollie Mains. Maria said client called her yesterday and said her caregiver was stealing from her.”
- Neutrality and objectivity
  - Are there unnecessary or gratuitous conclusions or statements that reflect on the case or the case investigator?
    - (Possible example: the client’s son is useless”)
- Completeness (explores possible alternative interpretations of events and defenses/justifications)
- Contradictions with other case information or documentation, e.g., a LE interview with the same witness; another witness
- Admissibility of the information in court—can any legal foundations for admissibility be met? Is the declarant available to testify? Is there an exception permitting the statement to be offered without the declarant testifying?

**Trainer Note: It is not the job of APS to determine what is legally admissible. This is the attorney’s assessment based on available documentation.**

## Slide #17: Admissibility of the Information: Observations



### Admissibility of APS Observations

- APS observations almost always admissible if APS witness is testifying to what perceived through senses
  - Did you have the right to be there to make the observation?
  - Were observations relevant to your role as APS?
  
- CAVEAT: Were you acting only as an agent of the CJS and would not have made these observations except as their agent
  - Observations may be subject to objection and exclusion
  - Acting as an agent is doing something the APS professional would not do as part of an APS investigation but does because they are directed to do so by LE.

### Explain:

- APS observations almost always admissible evidence (allowed to be entered as evidence) if APS witness in court is the person who made the observations

**Trainer Note: Participants may have experience of Supervisors testifying on behalf of a staff member who is no longer employed. If this comes up, discuss how that may be possible in Civil, Probate, or Administration Hearings, but it is extremely unlikely in a Criminal Court, due to defendant's right to confront and cross examine witnesses.**

## Slide #18: Admissibility of the Information: Believability

Admissibility of the Information:  
Believability



- Statement is scrutinized for believability
  - All persons present and duration of interactions included
  - Source of all statements clearly stated
  - Time between interview and its documentation
    - Goes to reliability of your conclusions
  - Document as closely in time as possible what you observed or heard
    - Key information is forgotten or mis-recalled as time passes
    - Notes made during interview?
      - OK to make notes in front of client, especially questions and answers, key statements in quotes
  - Completeness and level of detail—actual quotes in context of question asked?

### Explain:

- Statement is scrutinized for believability
  - All persons present and duration of interactions included (did you conclude something based on a 5 minute interaction or a 45 minute interaction?)
  - Source of all statements clearly stated
  - Time between interview and its documentation
    - Goes to reliability of your documentation
    - Documentation shortly after interview or hours or days later
  - Document as closely in time as possible what you observed or heard
    - Key information is forgotten or mis-recalled as time passes
    - **Ask** participants how they document at their agencies?
      - Notes made during interview? Use of lap top or recorders?
      - OK to make notes in front of client, especially questions and answers, key statements in quotes
  - Completeness and level of detail—actual quotes in context of question asked?

## Slide #19: Admissibility of the Information: Objectivity

Admissibility of the Information:  
Objectivity



- Types of questions asked—leading vs. open ended
- Questions appropriate to APS role or more CJS type questions?
- Inclusion of unnecessary opinions or conclusions especially if they reflect on the APS professional's objectivity and neutrality



Discuss the following 3 concerns of Objectivity:

1. Types of questions asked—leading vs. open-ended (which is more objective?)
2. Questions appropriate to APS role or more CJS type questions?

**Quickly share** the following scenario to explain the differences between APS and CJS type of questioning:

“The allegation is a home health aide hit the victim in the face while he was bathing him and the victim was trying to get out of the bath.”

**Ask:** What types of questions would APS ask the client during the interview?

Possible answers:

- Tell me about what happened in the bath.
- At some point did you want to get out of the bath? Tell me about that.
- How long has this aide worked in your home?
- How do you get along?
- How do you feel about the aide?
- Are there things the aide does that make you uncomfortable?
- Feel unsafe?

**Share** the examples of LE type of questions:

- Did he hit you with his left hand or his right?
- Open handed or closed fist?
- What did you tell the doctors about how you were injured?
- Do you want him arrested?
- Do you want to press charges?

**Slide #20: Admissibility of the Information: Other**

Admissibility of the Information: Other 

- For Reasoning and Convincing Force
  - Any corroborating information or evidence?
  - Based on what you have perceived through your senses, including what you have been told
  - Required conclusions clearly supported by statements attributed to their sources and corroborative evidence--documents, photos, other witnesses/collaterals, and A/P
- Other Factors
- If the APS professional did not confirm/sustain the allegation, why and will this undermine the prosecution case (e.g., Not meet eligibility standard vs. Did not believe the client's account)

**Discuss:** Inclusion of unnecessary opinions or conclusions especially if they reflect on the APS professional's objectivity and neutrality

- a. For Reasoning and Convincing Force
  - i. Any corroborating information or evidence?
  - ii. Based on what you have perceived through your senses, including what you have been told
  - iii. Required conclusions clearly supported by statements attributed to their sources and corroborative evidence--documents, photos, other witnesses/collaterals, and alleged perpetrator
- b. Other Factors
  - i. If the APS professional did not confirm/sustain the allegation, why and will this undermine the prosecution case
    - 1. Not meet eligibility standard vs. Did not believe the client's account

**Trainer Note:** It is important to state that APS should never adjust their finding based on the fact or a concern that a case will or will not go forward. APS should however, document WHY they arrived at that conclusion. Explain that reason for closure is also a factor. For instance: if the APS professional states the client is not credible it is less likely the case will be filed if the client's testimony is critical to the proof.

**Slide #21: Admissibility of the Client Statement**

**Admissibility of Client's Statement**

- Statements of Client to APS or LE
  - Hearsay and inadmissible unless an exception such as an excited utterance/spontaneous statement, present sense impression, statement for medical diagnosis, etc.



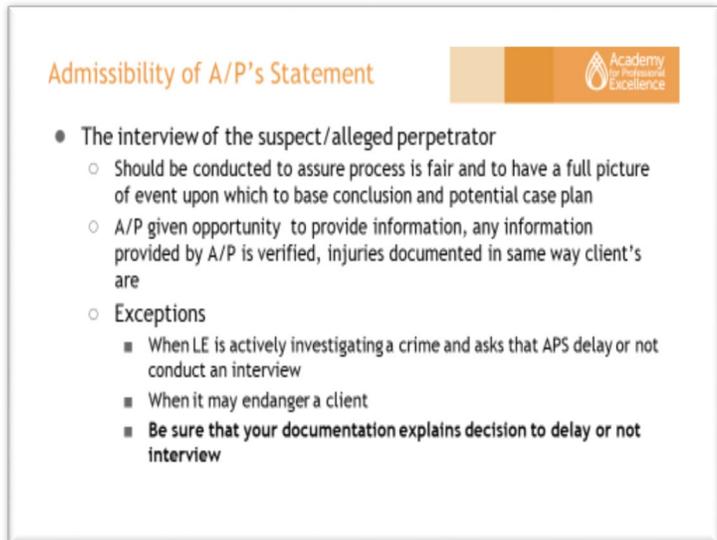
**Explain** that most statements made outside of court and offered for their truth, are inadmissible because they are “hearsay” statements.

Hearsay statements are considered untrustworthy as the defendant does not have a chance to cross examine the declarant (person who made the statement).

**Discuss** the following:

- Statements of Client
  - Admissible if client testifies and statement used to buttress the client’s statement which has been challenged by the other side in a court case
  - Hearsay and inadmissible (not accepted) if not hearsay or not offered for the truth of the statement (e.g., a hearsay exception such as an excited utterance/spontaneous statement, present sense impression, statement for medical diagnosis, or not offered for the truth of the statement but to show improbability of a defense, etc.

**Trainer Note: You may want to remind participants that documenting client’s statements is important for multiple reasons: corroboration, refreshing APS professional’s memory in court, disprove a defense of consent based on victim’s obvious incapacity, etc.; when discussing their documentation is admissible or not.**

**Slide #22: Admissibility of A/P's Statement**

**Admissibility of A/P's Statement**

- The interview of the suspect/alleged perpetrator
  - Should be conducted to assure process is fair and to have a full picture of event upon which to base conclusion and potential case plan
  - A/P given opportunity to provide information, any information provided by A/P is verified, injuries documented in same way client's are
  - Exceptions
    - When LE is actively investigating a crime and asks that APS delay or not conduct an interview
    - When it may endanger a client
    - **Be sure that your documentation explains decision to delay or not interview**

Discuss the following:

- The interview of the alleged perpetrator
  - Should be conducted to assure process is fair and to have a full picture of event upon which to base conclusion and potential case plan
  - A/P given opportunity to provide information; any information provided by A/P is verified, injuries documented in same way the client's statements are
  - Exceptions
    - When LE is actively investigating a crime and asks that APS delay or not conduct an interview
    - When it may endanger a client
    - **IMPORTANT: Be sure that your documentation explains decision to delay or not interview**

**Slide #23: Documentation Activity (Part 1)**



### Documentation Activity (Part 1)

- Refer to the Participant Manuals for the case study.
- Read the case study and work individually.
- Make a list of accurate/helpful documentation and a separate list of problematic areas and why they are problematic.



**Activity #4 Documentation( Part 1)-5 min**

1. **Direct** participants to the Participant Manuals **Handout #2** for the case documentation activity.
2. **Ask** them to read the entry and work individually.
3. **Ask** them to note both accurate and helpful documentation and problematic areas and why they are problematic.

**Allegation and Documentation****Handout #2**

*Received case - allegation is neglect by client's son.*

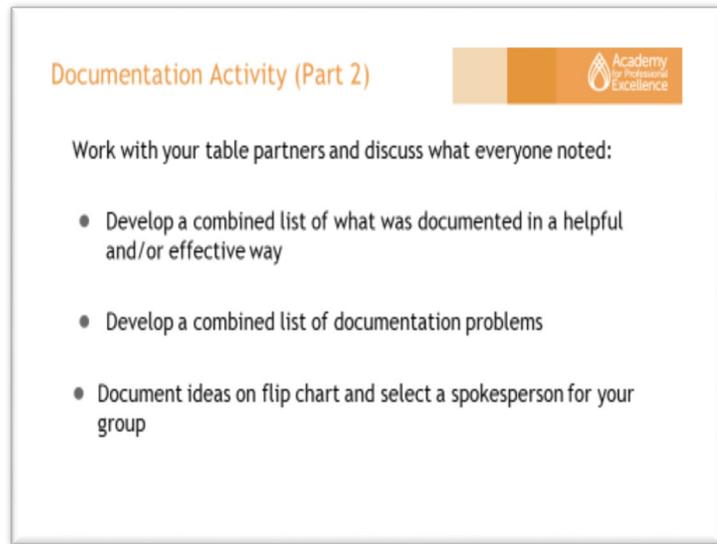
*“Conducted visit at hospital. Client's daughter, Cheri, was with client when SW arrived. Client being treated for heel ulcer and reportedly had an operation yesterday. SW attempted to speak to client but she did not respond. CL was curled up in fetal position. She allegedly has pulled out her IV so there is something wrapped on each arm to keep this from happening.*

*Daughter's story is that her mother broke her foot a while back and cannot take care of herself so her son (Cheri's BRO) helping the mother. He has been medicating client's sores with OTC medication after talking with client's primary physician. PCP reportedly told brother he cannot treat what he has not seen. Daughter indicated that brother is a lazy bum who is just being stubborn and insisted on treating sores himself.*

*Daughter admits she and her brother do not get along. I can see for myself just how argumentative and obnoxious she is. She told me I was not doing my job and should have gotten to the bottom of this a lot sooner.”*

Accurate:

Problematic:

**Slide #24 : Documentation Activity (Part 2)**

The slide is titled "Documentation Activity (Part 2)" and features the logo for the "Academy of Professional Excellence" in the top right corner. The main text instructs participants to work with their table partners and discuss their notes. It then lists three bullet points: developing a combined list of helpful and/or effective ways, developing a combined list of documentation problems, and documenting ideas on a flip chart while selecting a spokesperson for the group.

**Activity #5: Documentation (Part 2): 10 min**

1. **Ensure** participants have completed Part 1.
2. **Ask** participants to discuss what they noted with others at their table and develop a combined list of what they found that was accurate as well as what they found that was problematic with the documentation.
3. **Instruct** them to create a combined list and put on a flipchart and post

Report out: **Ask** each group for one idea until all ideas have been mentioned. If the report back is not specific, **ask** the reporter to give an example of the point they are making.  
(Note: possible answers are on the next slide)

**Slides #25 & #26: Activity Recap:**

**Activity Recap:  
(Helpful Documentation)**



- Location of the interview
- Some medical history included
- Describes a caretaker relationship and names the caretaker
- Includes some observations;
- Includes information on relationship between brother and sister

**Activity Recap  
(Problematic Documentation)**



- Use of abbreviations makes statements unclear
- Cannot clearly tell source of each statement (info from primary care doctor)
- Quotations not in quotes (e.g., “lazy bum”)
- Gratuitous, judgmental statements (I can see for myself just how argumentative and obnoxious she is.”)
- Critical information missing—what is wrapped on mother’s arms to prevent her pulling out her IVs; context for what primary care doctor told brother and source of this information
- Reframe client “didn’t respond” to better reflect that she is ill and may be unable to respond. Clarify if unable to respond.
- Use of terms such as allegedly, story suggests disbelief. Should use words like told me, said, or stated instead
- Information is not presented in logical, chronological order.

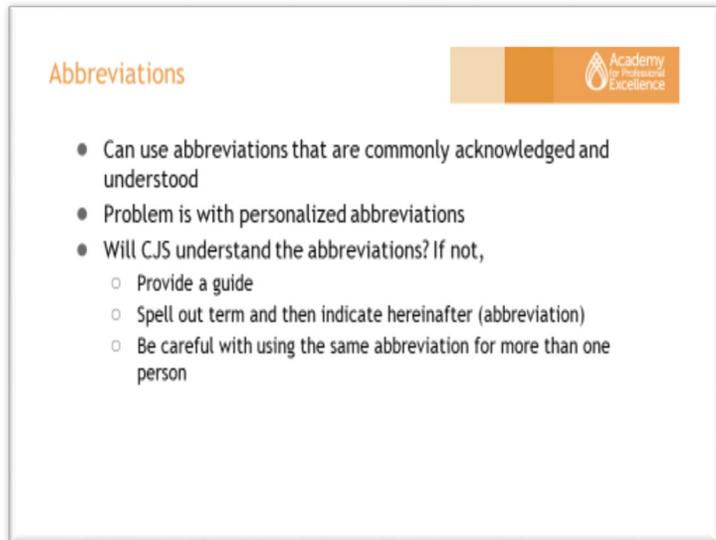
**Teach back** with the bullets listed on the slides.

**Helpful Documentation**

- Location of the interview
- Some medical history included
- Describes a caretaker relationship and names the caretaker
- Includes some observations;
- includes information on relationship between brother and sister

**Problematic Documentation**

1. Cannot clearly tell source of each statement (info from primary care doctor)
2. Quotations not in quotes (e.g., “lazy bum”)
3. Gratuitous, judgmental statements (I can see for myself just how argumentative and obnoxious she is.”)
4. Critical information missing—what is wrapped on mother’s arms to prevent her pulling out her IVs; context for what primary care doctor told brother and source of this information)
5. Reframe client “did not respond” which sounds as though she is not cooperative to better reflect that she is ill and may be unable to respond. Clarify if unable to respond.
6. Use of terms such as allegedly, story suggests disbelief. Should use words like told me, said, or stated instead
7. Information is not presented in logical, chronological order.
8. Abbreviations NOTE: next slide discusses in depth.

**Slide #27: Abbreviations**

**Abbreviations**

- Can use abbreviations that are commonly acknowledged and understood
- Problem is with personalized abbreviations
- Will CJS understand the abbreviations? If not,
  - Provide a guide
  - Spell out term and then indicate hereinafter (abbreviation)
  - Be careful with using the same abbreviation for more than one person

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**Discuss** the pros and cons of using abbreviations. Include participant's internal policies on use of abbreviations.

- Use of abbreviations makes statements unclear.
  - Discuss ways that using abbreviations (hereinafter “abr”) will work for both APS and CJS. 2 suggestions: APS spells out the word when using it for the first time with (abr) after word. Then can use abr throughout report. Or, have a standard list of abr and turn that over with your report to CJS.

**Slide #28: Documentation Activity (Part 3)**

**Trainer Note: If time allows, Part 3 could be done individually, instead of within their table groups.**

**Documentation Activity: (Part 3)**

● Work with your table partners and redraft the case study documentation so it is **clear** and **effective**.



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**Activity #6: Documentation (Part 3)-10 min.**

1. **Direct** each table group to redraft the documentation so it is clear and effective. (Note, there is space provided in their Participant Manual)
2. **Have** 1-3 participants share their improved documentation.
3. **Direct** participants to **Handout #3-Sample Improved Documentation**.

**Trainer Note: Handout #3- Sample Documentation, is in the Trainer Manual, next page, to make copies and pass out AFTER the participants have finished the various report out.**

**Sample Documentation:****HANDOUT #3**

*Received case - allegation is neglect by client's son.*

*APS Social Worker (Hereinafter SW) received case on \_\_\_\_\_.*

*“On \_\_\_\_\_(date) SW conducted visit at hospital. Went to Margaret Davis, client's room, Number \_\_\_ in General Medical Unit on date (listed) and time (listed). On arrival, SW introduced self by name, agency, and reason for being there. Present were Client and her daughter, Cheri. Cheri stated that her mother was being treated for a heel ulcer and had had surgery yesterday. This information was later confirmed with Client's nurse, Mickey Johnson.*

*SW observed that the client was in bed curled up in fetal position. SW observed that she had what appeared to be white gauze bandages on both arms. SW attempted to speak with her but she did not respond. She appeared to be sleeping throughout SW's visit. SW told her daughter that a visit at another time would be attempted.*

*SW then spoke to the daughter, Cheri who stated that her mother broke her foot about 4 weeks ago and has been unable to care of herself. Her brother, Jeff Davis, then moved in to help her. Client developed sores on her back, which Jeff has been medicating with some over the counter medications. Jeff told Cheri that he called the client's doctor, Dr. Siggins, to ask if he was doing what was needed. The doctor said that the medications Jeff was using may help a little but that the doctor could not be sure unless he saw the client in person. Cheri stated that she is frustrated with her brother and his care of her mom saying “Jeff is a lazy bum who is just being stubborn and insisting on treating the sores himself”. She said that she and her brother “do not get along”.*

*SW obtained contact information for Jeff from Cheri.*

*SW asked Cheri about the bandages on her mother's arms. She said that her mother tried to pull out her IVs so staff put on bandages to protect the IVs. She told SW that “I was not doing my job and I should have gotten to the bottom of this a lot sooner.”*

*SW then spoke with Client's nurse, Mickey Johnson, who said that the client had become agitated after the surgery yesterday and tried to pull out her IVs. She said this sometimes happen after a patient receives anesthesia. Client's doctor, Dr. Magnus, ordered that the IVs be protected with the bandaging and that client be sedated temporarily. She said that is why the client is not able to respond at this time. She suggested that SW come back in a couple of days.*

*SW visit ended at \_\_\_\_ (time).*

## Slide #29: Spontaneous Statements & Excited Utterances



### Spontaneous Statements / Excited Utterances

- Made while someone is under the effects of an event that produces nervous excitement and before that person has time to deliberate or consider an answer. (Blurted out w/out deliberation)
- W/out thinking can respond in words
- The key to capturing these statements is:
  - Documenting the context, actual words (“in quotes”), and the behaviors that show the person is under the stress of excitement from the startling event.
- Don't try to decide what is and what is not an excited utterance/ spontaneous statement but document fully all statements.
- These statements are especially important because the person who heard the statement and saw the declarant's behaviors testifies rather than the person who made the statement (the declarant).

### Discuss the following:

- There are many exceptions to the hearsay rule. One of the most common is called an “excited utterance” (Federal Rules of Evidence Section 803(2)) or as it is called in some states “spontaneous statements.”

NOTE: In California, statements are called “spontaneous statements”. CA Evidence Code Section 1240, which states “Evidence of a statement is not made inadmissible by the hearsay rule if the statement:

- a. Purports to narrate, describe, or explain an act, condition, or event perceived by the declarant; and
  - b. Was made spontaneously while the declarant was under the stress of excitement caused by such perception”.
- These are statements made while someone is under the effects of an event that produces nervous excitement and before that person has time to deliberate or consider an answer. They are often blurted out without deliberation.
  - Such statements are admissible through the testimony of the person who heard them even if the declarant (person making the statement) is not available to testify

**Ask** participants if anyone has witnessed a car crash. **Ask** them to think back and remember when they realized what was about to happen and then the cars collided. “Without thinking, did you say anything?”

**Explain** that victims of crimes and other traumatic events can experience similar startling events and without thinking can respond in words.

- The key to capturing these statements is:
  - Documenting the context,
  - Documenting the actual words (“in quotes”), and
  - Documenting the behaviors that show the person is under the stress of excitement from the startling event.

- APS professionals should not try to decide what is and what is not an excited utterance/ spontaneous statement but should document fully all statements.
- These statements are especially important because the person who heard the statement and saw the declarant's behaviors testifies rather than the person who made the statement (the declarant).
  - Even the statements of a witness who may not be legally competent to testify may be admissible in some jurisdictions.

**Trainer Note:**

- **Excited utterance**
  - **"The underlying rationale of the excited utterance exception is the notion that a statement made in the excitement of a startling event, before the speaker has the opportunity to reflect on the event, has sufficient indicia of truthfulness to warrant admission.**
  - **An excited utterance is the event speaking and not the speaker. It is an exception to the hearsay rule, carved from human experience, which teaches that an unreflected, spontaneous utterance made under the impact of a shocking, unexpected emotion, precipitated by a traumatic event, renders the speaker the medium and not the message. Such an utterance is allowed in evidence because it is spontaneous and unreflected, without influence from thought, design and reason."**

**Commonwealth v. Wholaver, (PA, 2010) 989 A.2d 883, 909**

**Slide #30: Ms. Mary: Video Clip**

**Trainer Note: Explain that the clip may be triggering and give participants permission to “check out” if needed.**

**Ms. Mary- Video Clip** 

PLEASE NOTE: THIS VIDEO MAY BE TRIGGERING

- Ms. Mary’s grandson sexually assaulted and physically attacked her when she was in her 90s.
- This is her first call after the attack—her call to 911.
- Refer to the Spontaneous Statement chart in your Participant Manual
- As you listen, **document what you hear** in the appropriate column—Context, Quotes, and Behaviors.

**Activity #7: Documenting Ms. Mary (5 min)**

**Inform** the participants that we are going to watch a very short statement by Ms. Mary, whose Grandson sexually assaulted and physically attacked her when she was in her 90s.

**Acknowledge** that the video is very difficult to watch and her experience is almost unimaginable. This is her first call after the attack—her call to 911.

**Instruct** them to go to the Participant Manual and find **Handout #4-Spontaneous Statement Chart**. As they listen to the audio tape, document what they hear in the appropriate column—Context, Quotes, and Behaviors.

**Play** the clip (1min 6sec) and **lead** teach back content by each category.

- Possible Responses
  - Context: 911 call; trying to get help; is bleeding
  - Quotes: Maniac in the house; help; send 2 or 3, hurry, bleeding
  - Behaviors: is not tracking questions and answer what is being asked, gasping

After the teach back, **inform** participants of the outcome of case:

- Ms. Mary’s grandson was arrested sleeping in Ms. Mary’s bed. He maintained his innocence and went to trial. Ms. Mary testified for many hours. The jury deliberated for hours before returning a guilty verdict. Defendant was sentenced to decades in prison. He is serving that term now. Ms. Mary survived for a number of years though she was abandoned by her family. Her new “family” were the many professionals who met her after the crime. They celebrated holidays with her and visited regularly. Ms. Mary was never able to live independently after the attack and spent the rest of her life in a nursing facility.

**Trainer Note: The entire case is described in the US OVC DVD and workbook “In Their Own Words” (2010) available at <https://www.ncjrs.gov/App/ShoppingCart/ShopCart.aspx?item=NCJ+227928> for \$5.00.**

**HANDOUT #4**

**Documenting Excited Utterances/Spontaneous Statements**

<b>Foundational Category</b>	<b>Examples</b>
<b>Context</b>	
<b>Statements/Quotes</b>	
<b>Demeanor/Conduct</b>	

**Slide #31: Summary Points: Documentation**

**Summary Points: Documentation**



- Effective documentation by APS is critical to successfully building a criminal case
- Documentation will help you as much as it will help the case and assist your client
- One important kind of documentation is an excited utterance, also called a spontaneous statement
- APS professionals rise and fall on the strength of their documentation



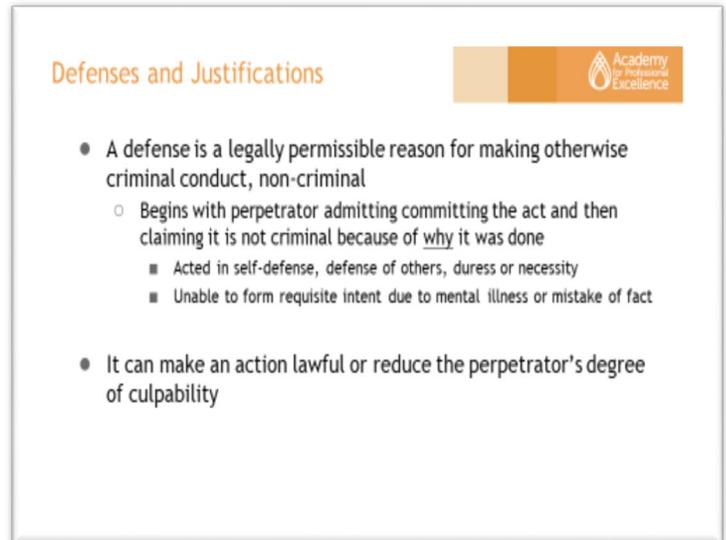
**Summarize** this past section:

- Effective documentation by APS is critical to successfully building a criminal case
- Documentation will help you as much as it will help the case and assist your client
- One important kind of documentation is an excited utterance (spontaneous statement)
- APS professionals rise and fall on the strength of their documentation

## **DEFENSES AND JUSTIFICATIONS**

### **Time Allotted: 45-60 minutes**

**Slide #32: What is a legal defense or justification?**



**Defenses and Justifications**

- A defense is a legally permissible reason for making otherwise criminal conduct, non-criminal
  - Begins with perpetrator admitting committing the act and then claiming it is not criminal because of why it was done
    - Acted in self-defense, defense of others, duress or necessity
    - Unable to form requisite intent due to mental illness or mistake of fact
- It can make an action lawful or reduce the perpetrator's degree of culpability

**Explain the following:**

- A defense is a legally permissible reason for making otherwise criminal conduct non-criminal
  - Begins with perpetrator admitting committing the act and then claiming it is not criminal conduct because of why it was done
  - Acted in self-defense, defense of others, duress or necessity
  - Unable to form requisite intent due to mental illness or mistake of fact
- A defense can make an action lawful or reduce the perpetrator's degree of culpability (responsibility)

**Slide #33: Why Discuss Defenses?**

**Why Discuss Defenses?**



- If a valid defense is present, there is no crime
- Cannot arrive at a valid conclusion such as confirming an allegation without exploring and evaluating possible defenses
- Difficult to arrive at an effective care plan without exploring defenses as they may go to why the act was done (“intent”)



**Ask:** “Why do we need to discuss defenses in an APS training?”  
Elicit several answers.

**Display** bullets on slide one-by-one and comment about these points:

- If a valid defense is present, there is no crime
- Cannot arrive at a valid conclusion such as confirming an allegation without exploring and evaluating possible defenses
- Difficult to arrive at an effective care plan without exploring defenses as they may go to why the act was done (“intent”)
- For example, the defense could be “we were doing the best we could and didn’t intend to harm anyone” in a caregiver neglect case. That defense, if supported by evidence, might preclude the filing of a criminal case. What APS can confirm or sustain may be different from whether that case can be prosecuted. Such information will certainly affect the kind of services and assistance a client may need.
  - Rule defenses in until you rule them out

### Slide #34: Activity (Part 1): Anticipating Defenses



**Activity (Part 1): Anticipating Defenses**

Work with your table partners and develop a list of possible defenses for your assigned form of abuse.

Put the defense in the words of an A/P (e.g., she bruises easily, she wanted me to have it)

Put list on a flip chart.

- Group 1: Physical abuse
- Group 2: Sexual abuse
- Group 3: Caretaker neglect
- Group 4: Financial abuse by adult child
- Group 5: Financial abuse by agent/attorney in fact under Power of Attorney for a client with an intellectual disability.



### Activity #8: Anticipating Defenses (Part 1)-7-10 min

**Assign** each table group one form of older or vulnerable adult abuse.

**Instruct** each group to develop a list of possible defenses for that allegation and write the list on a flip chart.

**Have** groups put the defense in the words of an alleged perpetrator, e.g., she bruises easily, she wanted me to have it.

Group 1: Physical abuse

Group 2: Sexual abuse

Group 3: Caretaker neglect

Group 4: Financial abuse by adult child

Group 5: Financial abuse by agent under a power of attorney for a client with an intellectual disability

#### Possible responses:

**Physical abuse:** I was protecting myself; he came at me (self-defense), I was protecting my daughter (defense of others), he attacked my truck so I had to push him away (defense of property); she is on blood thinners, she bruises easily; she fell, she is clumsy, she has Alzheimer's Disease and is very combative.

**Sexual abuse:** It was consensual; she has Down's Syndrome and imagines things. I was just helping her shower, she came on to me—she wanted it.

**Neglect by Caretaker:** I am not the caretaker; she refuses to go to the doctor; she has end stage cancer and I cannot prevent the pressure ulcers, I am doing the best I can; we cannot afford to get her everything her condition requires; she wants to die at home.

Continued

Financial Abuse: It was a gift; it was a loan; I am the power of attorney so this is within my authority, it is my salary; she is confused and making this up; in our culture we share resources.

Financial abuse by agent under a Power of Attorney for a client with an intellectual disability: I am the Power of Attorney so this is within my authority; they do not understand what is happening because they are “slow”; they wanted me to have this for all of the nice things I’ve done for them.

### Slide #35: Activity (Part 2): Anticipating Defenses

**Activity (Part 2): Anticipating Defenses** 

Develop questions to ask the A/P and an investigative strategy for following up on what the A/P states for your assigned defense.

- Put your findings on a flip chart and present to the group.
- Use the grid in your Participant Manual

- Group 1: She came at me and I had to defend myself
- Group 2: It was consensual
- Group 3: I am not the caregiver
- Group 4: It was a gift
- Group 5: I am the POA so this spending is within my legal authority

### Activity #9: Anticipating Defenses (Part 2)-15-20 min

1. **Assign** each group one of the defenses on the PowerPoint slide and ask them to develop 3-5 questions and an investigative strategy they would use in a real case.
2. **Have** each group put their answers on a flip chart and report out in the order illustrated on the PowerPoint slide.
3. **Direct** participants to the Participant Manual **Handout #5-Defenses Planning Template** to use for this activity.

Example on PowerPoint

Group 1: She came at me and I had to defend myself

Group 2: It was consensual

Group 3: I am not the caregiver

Group 4: It was a gift

Group 5: I am the POA so this spending is within my legal authority

At conclusion, **refer** to participants to **Handout #6- Abuser Justifications and Defenses** for use in their everyday work.

**Trainer Note: This handout is also in Module 8 of NAPSA Core Curriculum “Dynamic of Abusive Relationships”.**

**HANDOUT #5**

**Defenses Planning Template**

Type of Abuse	Justification/Defense	Follow Up Questions from APS (3-5)	Further Investigation in Light if Justification

## ABUSER JUSTIFICATIONS AND DEFENSES<sup>1</sup>

### APS CONSIDERATIONS

HANDOUT #6

FORM OF ABUSE	Justification / Defense	Investigation Considerations
<b>Physical</b>	“She fell.”	<ul style="list-style-type: none"> <li>Does the medical or physical evidence match suspect’s/victim’s/witness’ description of events?</li> </ul>
	“He’s just clumsy.”	<ul style="list-style-type: none"> <li>Does the medical or physical evidence match suspect’s/victim’s/witness’ description of events?</li> </ul>
	“I was trying to help.”	<ul style="list-style-type: none"> <li>Does the medical or physical evidence match suspect’s/victim’s/witness’ description of events?</li> </ul>
	“She bruises easily.”	<ul style="list-style-type: none"> <li>Does the medical or physical evidence match suspect’s/victim’s/witness’ description of events?</li> <li>Is the victim taking medications that can cause a person to bruise easily?</li> </ul>
	“It was an accident.”	<ul style="list-style-type: none"> <li>Does the medical or physical evidence match suspect’s/victim’s/witness’ description of events?</li> </ul>
	“He has Alzheimer’s disease or he’s crazy. You can’t believe what he says.”	<ul style="list-style-type: none"> <li>Do the medical history and/or mental health experts support this assertion?</li> <li>What are your observations of victim/suspect/witness at different periods of time?</li> </ul>

<sup>1</sup> Excerpts taken from Barron, T. (1998) *Financial Exploitation of Infirm Adults: A Prosecutor’s Perspective*. Violence Against the Elderly and Disabled. 1(4), 53 – 64.

	<p>"I was defending myself."</p>	<ul style="list-style-type: none"> <li>• Is there sign of a defensive injury?</li> <li>• Who is the predominant (or primary) physical aggressor?</li> </ul>
<p><b>Neglect</b></p>	<p>"She has always lived like this. She's not a good housekeeper."</p>	<ul style="list-style-type: none"> <li>• Are there sufficient resources to provide for the victim's needs?</li> <li>• Has the victim's capacity changed over time?</li> <li>• Is there a caregiver?</li> <li>• Do friends or family members support this statement?</li> </ul>
	<p>"I'm doing the best I can. Taking care of him is very difficult."</p>	<ul style="list-style-type: none"> <li>• Does the victim have sufficient capacity to make informed decisions about care, including refusing to accept care or treatment?</li> <li>• Does the victim have a history of refusing help?</li> <li>• Does the suspect have a duty to provide care?</li> <li>• Is the suspect receiving payment to provide care?</li> <li>• Has the caregiver been instructed on the victim's condition, care needs and how to provide care?</li> <li>• Does caregiver have any special training in providing care?</li> <li>• Are the victim's care needs obvious and would be apparent to the average person?</li> </ul>
	<p>"He doesn't want medication/medical treatment. I'm honoring his wishes."</p>	<ul style="list-style-type: none"> <li>• Is there documentation of person's wishes (for example, a do not resituate order [DNR])?</li> <li>• What is the victim's capacity, as documented by a trained professional?</li> <li>• Are there historical statements of intent or the desires of the victim?</li> </ul>
	<p>"She refused to eat."</p>	<ul style="list-style-type: none"> <li>• What is the health history of the person's condition?</li> </ul>
	<p>"I didn't know how sick she was or what she needed."</p>	<ul style="list-style-type: none"> <li>• Is there a medical history indicating how often victim was taken to a doctor and what was told to the caregiver about the patient's condition?</li> </ul>

	<p>“I’m just doing what she (the victim) wants.”</p>	<ul style="list-style-type: none"> <li>• Do wills or advanced directives describing what the victim wants exist?</li> </ul>
<p><b>Sexual</b></p>	<p>“She wants to have sex with me.” or                  “She likes watching pornographic movies with me.”                  (Suspect is trying to show consent.)</p>	<ul style="list-style-type: none"> <li>• If the victim has capacity, what is the victim’s account of what happened?</li> <li>• If the victim does not have capacity, the victim cannot consent.</li> </ul>
	<p>“She’s my wife/girlfriend.”</p>	<ul style="list-style-type: none"> <li>• If the victim has capacity, what is the victim’s account of what happened?</li> <li>• If the victim does not have capacity, the victim cannot consent.</li> </ul>

	“I was just cleaning or bathing him. This is not sexual abuse.”	<ul style="list-style-type: none"> <li>• What does a health care provider say about whether appropriate caregiving techniques were being used?</li> </ul>
	“She came on to me.”	<ul style="list-style-type: none"> <li>• If the victim has capacity, what is the victim’s account of what happened?</li> <li>• If the victim does not have capacity, the victim cannot consent.</li> </ul>
	We’re consenting adults.”	<ul style="list-style-type: none"> <li>• If the victim has capacity, what is the victim’s account of what happened?</li> <li>• If the victim does not have capacity, the victim cannot consent.</li> </ul>
	“She acted like she liked it.”	<ul style="list-style-type: none"> <li>• If the victim has capacity, what is the victim’s account of what happened?</li> <li>• If the victim does not have capacity, the victim cannot consent.</li> </ul>
	“She’s my wife. I have the right.”	<ul style="list-style-type: none"> <li>• Check state marital rape laws. If the victim has capacity, what is the victim’s account of what happened?</li> <li>• If the victim does not have capacity, the victim cannot consent.</li> </ul>
<b>Financial Exploitation</b>	Loan	<ul style="list-style-type: none"> <li>• What is the capacity of lender?</li> <li>• Is there written proof of the loan including the amount and period of loan and were other loans made?</li> <li>• What are the terms of repayment and were any repayments made?</li> </ul>
	Gift for self or children	<ul style="list-style-type: none"> <li>• What is the capacity of the donor?</li> <li>• What is the value of the gift?</li> <li>• What is relationship between donor &amp; victim?</li> <li>• Is there evidence of donor’s intent to make a gift?</li> <li>• Why was a gift made? (Any promises or other inducements?)</li> </ul>
	Services Provided	<ul style="list-style-type: none"> <li>• What is the capacity of the person seeking the services?</li> <li>• What were the services; were they needed; how often were services provided; how well performed; were supplies provided?</li> <li>• What is the value of services vs. amount paid for them?</li> </ul>

	Permission	<ul style="list-style-type: none"> <li>• What is the capacity of the victim?</li> <li>• Is there evidence of actual permission?</li> <li>• Were there promises or other inducements to get permission?</li> <li>• Who benefited?</li> <li>• How often was permission used?</li> <li>• What is the value of items obtained?</li> <li>• Did victim understand what permission was used to do?</li> </ul>
	Quid Pro Quo (“She lets me live with her in exchange for helping with errands.”)	<ul style="list-style-type: none"> <li>• What is the capacity of the victim?</li> <li>• Was the marriage reasonable given the relationship between the parties?</li> <li>• Was the suspect legally able to marry?</li> <li>• Are there any suspect misrepresentations?</li> </ul>
	Favor (“She freely gave me use of her car as a favor to me.”)	<ul style="list-style-type: none"> <li>• What is the capacity of the victim?</li> <li>• Who benefits from the favor; what did victim receive in return; is the benefit reasonable?</li> <li>• How does it fit prior financial planning and actions of the victim?</li> <li>• Did suspect receive payment to provide care?</li> <li>• What is victim’s relationship to business or person?</li> </ul>
	Lack of Knowledge (“But I do not know her PIN”)	<ul style="list-style-type: none"> <li>• What is the contrary evidence?</li> <li>• Did the suspect have access to information?</li> <li>• Were there other acts for same goal? (e.g., forged her signature to get an ATM card in victim’s name)</li> </ul>
	Legal authority	<ul style="list-style-type: none"> <li>• What is the capacity of the victim?</li> <li>• Is there legal authority in writing?</li> <li>• What does the legal authority cover and expressed or implied limitations?</li> </ul>
	Victim is crazy	<ul style="list-style-type: none"> <li>• Is there a medical opinion of victim’s mental health?</li> <li>• Are there statements from friends and family about victims behavior prior to and after suspect came into life?</li> <li>• Does the victim take any medications?</li> </ul>

		<ul style="list-style-type: none"> <li>• What was the victim’s behavior around time of questioned events? Is this conduct consistent with earlier times?</li> </ul>
	I’m the real victim	<ul style="list-style-type: none"> <li>• Who is benefiting financially?</li> </ul>
	<p>“We’re in love”                  married/in a relationship”:                  “We’re family”;                  “She’s like a mother to me;                  therefore, we share resources.”</p>	<ul style="list-style-type: none"> <li>• Who is benefiting financially?</li> <li>• What is true nature of relationship?</li> <li>• Are any cultural norms relevant for consideration?</li> <li>• Does suspect have other relationships or marriage licenses?</li> <li>• Does suspect have other income or debts?</li> <li>• Are victim’s basic needs met?</li> </ul>
	Purchase made as part of care	<ul style="list-style-type: none"> <li>• Is there evidence of purchase being used to provide care?</li> <li>• Is the purchase necessary for care?</li> </ul>

**Slide #36: Summary Points:**

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### Summary Points

- A complete, objective, and fair investigation requires APS to think about possible defenses/justifications that an A/P may offer.
- Important to explore them in interviews with the A/P
  - Who else knows what has been happening?
  - Have you confided in anyone? Who is the first person you told?
  - Any records or documents that bear on this situation?
- Explore with client (and other witnesses)
  - What do you think (A/P) will say about what has been occurring?
  - Have you confided in anyone?
  - Has anything like this happened before?
  - Any records or documents that bear on the situation?
- Look for other evidence that supports or refutes the defense

**Review** the following summary points:

- A complete, objective, and fair investigation requires that APS professionals think about possible defenses and justifications that an A/P may offer.
- Important to explore them during interviews with the A/P
  - Who else knows what has been happening?
  - Have you confided in anyone? Who is the first person you told?
  - Any records or documents that bear on this situation?
- Explore with client (and other witnesses)
  - What do you think (alleged perpetrator) will say about what has been occurring?
  - Have you confided in anyone?
  - Has anything like this happened before?
  - Any records or documents that bear on the situation?
- Look for other evidence and information that supports or refutes the defense.

## **TESTIFYING IN COURT**

### **Time Allotted: 30-40 minutes**

#### **Slide #37: Testifying in Court**

#### Testifying in Court



- APS professionals may be called to testify in a variety of tribunals such as criminal, civil, and probate courts, a grand jury, or an administrative hearing
- No matter what the court setting or type of case, the rules for testifying are largely the same
- Content applicable to criminal and other court settings



**Explain** that part of the responsibilities of an APS professional include testifying in court.

**Ask** by show of hands, “how many have testified as an APS witness in any kind of case?”

**Ask** for a few quick thoughts on how they felt before, during and after being called as a witness.

**Discuss** that APS professionals may be called to testify in a variety of tribunals such as criminal, civil, and probate courts, grand jury and even before administrative bodies. (e.g....disciplinary hearing for defendant to remove license; worker’s compensation matter)

No matter what the court setting or type of case, the rules for testifying are largely the same so this section applies not just to criminal cases.

**Slide #38: Testifying: Your Reality**



### Testifying: Your Reality

- › What are your fears and concerns?
- › How do you address and hopefully overcome these fears and concerns?
  - What has been helpful?
- › Recognize that you are not in control of what you will be asked
  - Less of a concern when you are thoroughly prepared and have documented fully



**Ask** the group to express their fears and concerns about testifying.

- Acknowledge that these fears and concerns are real and understandable.

**Highlight** that in court the witness is not in control.

- They must react to what they are asked, not what they wanted to be asked.

**Ask:** “What can APS professionals do to address these fears and concerns?”

Possible answers: Prepare thoroughly, meet with counsel in advance of the court date, write effective documentation that will help you when it is time to testify, watch court proceedings or attend court when another APS professional is testifying, office mock hearings conducted by an attorney, learn the courtroom rules of the road.

**Explain** they can and should review their own case file.

**Trainer Note: Usually prosecutors will meet with the witnesses, including APS professionals, and at that time, explain what is charged, and how they plan to use the witness’ testimony, what must be proven, the purpose of the witness’ testimony, anything the court has ruled inadmissible; areas of likely cross examination, and any case issues or possible problems with their testimony. It also is common that the prosecutor will review all documents to be used during their testimony and make available any prior testimony or statements the witness has given in the case. The APS professional should not expect that the prosecutor will share the prosecution file.**

**Ask** for volunteers to share their experience of “court preparation” with the Prosecutor.

**Slide #39: Connecting the Dots**

Connecting the Dots



- Complete and well written documentation will make the court experience easier
  - Better document to refresh your memory
  - Raises fewer areas for other side to attack
  - Clearly demonstrates your credibility and professionalism
  - May result in fewer and shorter court appearances



**Explain** that the more complete and well written the documentation is, the easier court experience likely will be.

- Better documentation will help you refresh your memory
- Raises fewer areas for other side to attack
- Clearly demonstrates your credibility and professionalism
- May result in fewer and shorter court appearances

A solidly documented case file will help you be a better and more credible witness by really helping you to recall the events in which you participated.

**Ask** participants if they can remember from the core curriculum what burden of proof the Prosecution has?

**Remind** them that because of this burden, beyond a reasonable doubt, the other side will always look for weaknesses in your case and use them to help their case and undermine the believability of the case for the side calling you.

- If you have not created such opportunities the other side will be less likely to make the defense about you and your lack of objectivity, your rush to arrive at your finding, or your sloppy handling of the case.
- The case will continue to focus on the defendant's conduct and not yours.
  - Taking the defense off of you and your investigation will better serve your client.

**Slide #40: Activity:  
Documentation and Cross Examination (Part 1)**

**Activity: Documentation and Cross Examination (Part 1)**



- Refer back to Participant Manuals, (“bad sample entry”).
- Review the original APS entry.
- If you were the **defense attorney representing the brother** in a neglect prosecution, how would you attack this documentation?
- Draft 2-3 questions the **attorney for the brother** would ask the APS professional.

**Activity #10: Documentation and Cross Examination (Part 1)- 10 min**

1. **Ask** participants to locate Handout #2 from the documentation activity this morning.
2. **Explain** that they will work in pairs or groups of three and look at the original APS entry.
  - a. **Ask** them to imagine they are the defense attorney representing the brother in a neglect prosecution.
  - b. How would they attack the documentation of the APS professional?
  - c. **Refer** them to **Handout #7- The Connection Between Documentation and Testifying** and **Inform** them that they have 5 minutes to make a list of areas to challenge and write 2-3 questions the attorney for the brother would ask the APS professional.
  - d. **Ask** groups to count their entries, group with most entries will lead discussion. Other groups add new items.
  - e. **Ask** 2-3 groups to provide their questions.

Possible areas for challenge: (You may want to write down on a flip chart the areas to challenge for next part of activity)

- Lack of personal information—only has sister’s account of source of ulcers.
- Did not try to interview nurse
- Did not ascertain why victim did not speak with APS professional
- Did not follow up on nature of relationship or bias sister has to brother
- Unnecessary opinions about sister which will undermine any testimony offered at trial by the sister
- No timeline
- No idea how long interview/contact lasted

**HANDOUT #7****The Connection Between Documentation and Testifying**

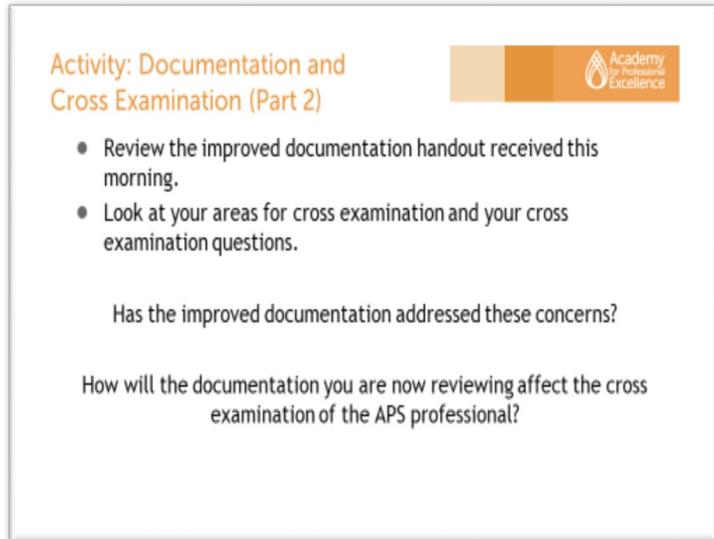
Look at Handout #2

You are the defense attorney representing the brother in a neglect prosecution. How will you attack the documentation of the APS professional?

Challenges:

Cross Examination Questions:

**Slide #41: Activity:  
Documentation and Cross Examination (Part 2)**



**Activity: Documentation and Cross Examination (Part 2)**

- Review the improved documentation handout received this morning.
- Look at your areas for cross examination and your cross examination questions.

Has the improved documentation addressed these concerns?

How will the documentation you are now reviewing affect the cross examination of the APS professional?

**Activity #11: Documentation and Cross Examination (Part 2)- 10 min**

1. **Review** the slide
2. **Have** class review **Handout #3-Sample Documentation** in Activity 2 from earlier in the course (handout given to them, it is NOT in the Participant Manual)
3. **Ask** “Has the improved documentation addressed these cross examination areas?”
4. **Discuss** any discrepancies.
5. **Close** this segment out by commenting that the improved documentation has left little for the other side to cross examine about.

**Slide #42: Your Role as an APS Witness**

**Your Role as an APS Witness**

- The APS witness is a source of neutral and objective information
- NOT an advocate for the prosecution
- Should testify the same no matter who asks the questions
  - Same tone of voice
  - Same type and length of answers
  - Same demeanor
- You may appear less credible and less convincing if you come across as favoring one side over the other



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**Ask:** “What is your role in court?”

**Highlight** that the APS witness is a source of neutral and objective information. Although APS often works closely with the Prosecution office and may be called as a witness by the prosecutor, APS is NOT an advocate for the prosecution; that is the job of the attorneys. You do not work for one side in the case.

You should testify the same no matter who asks the questions

- Same tone of voice
- Same type and length of answers
- Same demeanor
- Otherwise, you look like an advocate and that is not your role in court.
- You may appear less credible and less convincing

**Slide #43: Court Process**

**Court Process** 

- Process is governed by rules intended to assure the defendant receives a fair trial.
- Expect that witnesses will be excluded from the courtroom until they testify
- There is an order to the trial
  - Selection of jury (if a jury trial)
  - Opening statement—roadmap of what the sides expect to prove
  - Testimony of Prosecution/Plaintiff Witnesses
  - If one is presented, the defense case
- Closing Arguments
- Court instructing jury (if a jury trial)

**Explain** that the court process is governed by rules intended to make the trial fair.

There is an order to the trial.

What you will not likely see (as it is common for witnesses to be excluded and times when case is heard) is:

- Selection of jury (if a jury trial)
- Opening statement—roadmap of what the sides expect to prove
- Testimony of Other Witnesses:
  - **Ask:** Why do you think witnesses cannot watch others (or at least until after witness testifies)
  - **Explain** that often there is a belief and concern watching other witnesses will affect your testimony.
- If one is presented, the defense case
  - **Remind** participants that the defendant does not have to prove anything, present a defense, or testify.
  - In some cases the defense will rest on the state of the prosecution case and argue that the prosecution has failed to prove the defendant is guilty of any crime
- Closing Arguments
- Court instructing jury (if a jury trial)

**Slide #44: When You Testify**

When You Testify

- Direct examination
- Cross examination
- Redirect examination—address any issues raised during the cross examination
- Recross examination—address any issues raised during the redirect examination

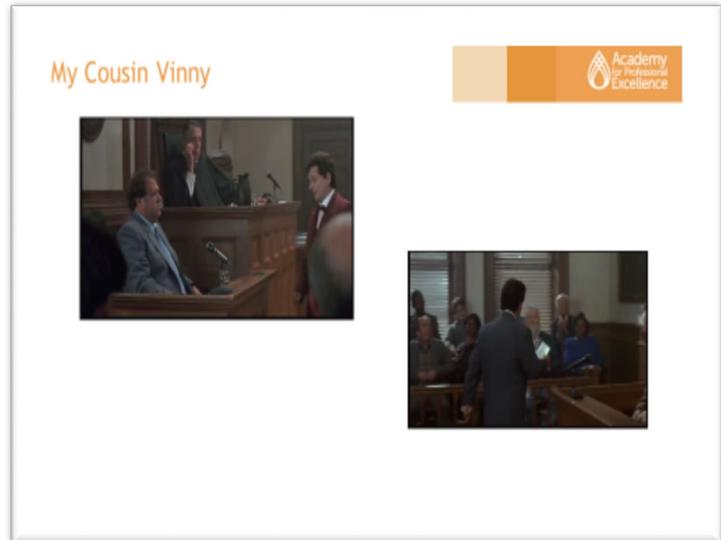


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**Discuss the following:**

- Direct examination
  - Questions asked of you by the attorney who has called you to testify. These are usually non leading questions that ask you to describe what you saw, heard, or did.
  - Examples: “On June 20<sup>th</sup>, about 1130, where were you? What took you to that address? What was your purpose in going there?”
- Cross examination
  - Questions that follow direct examination that are intended to advance the other side’s case theory and/or to challenge the information (or you as a witness) provided on direct examination. Leading questions are more narrowly phrased and often ask for a yes or no answer.
- Redirect examination—address any issues raised during the cross examination
- Recross examination—address any issues raised during the redirect examination

**Remind** participants that the prosecution can always ask more questions and in a sense has the final word when examining a witness. Follow up questions may be asked if the testimony has become unclear, something has been taken out of context by the other side during cross examination, or new information was elicited on cross examination. It is the prosecutor’s job to return to areas needing more information or clarification, not the witness’ responsibility.

**Slide #45: Video Cross Examination**

**Inform** participants that we will be using a video clip from pop culture to discuss Cross Examination and types of witnesses.

**Play** the video clip from My Cousin Vinny.

(use clip on grits or leaves)

**Ask** “What did you learn from the video?”

Possible answers:

Only answer what you know; stick to the facts; do not guess; do not overreach

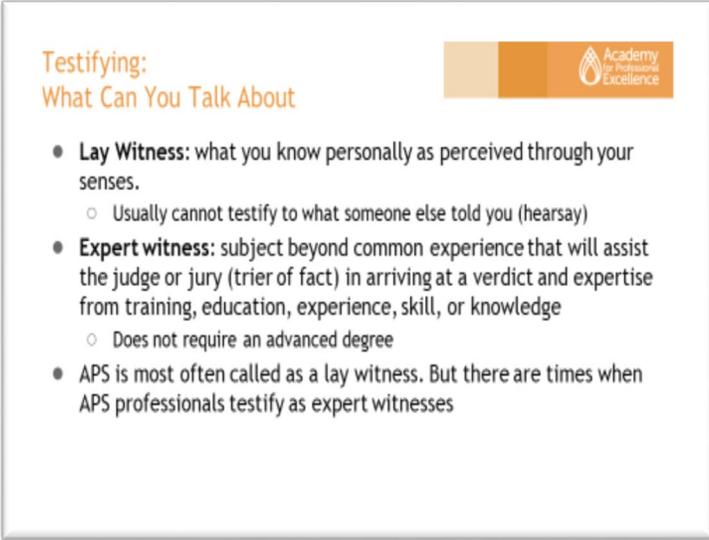
If not mentioned, **discuss**:

- Listen carefully
- First questions are often about matters that help the other side’s theory of the case
- Later questions will attempt to undermine strength of other side’s case, may attack your credibility, or challenge the thoroughness of your work
  - Stay calm and professional
- Answer only what you know not what you think you know.

**Ask:** Does the attorney who called the witness get another chance to try to clarify information provided on cross examination?

**Answer:** yes, redirect examination (though in the video the damage to the witness’s credibility and information is probably beyond clarification or rehabilitation)

**Trainer Note: You can use either “Leaves” clip (1:54 running time) or “Grits” clip (3:34 running time)**

**Slide #46: Testifying: What Can You Talk About**

**Testifying:  
What Can You Talk About**

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- **Lay Witness:** what you know personally as perceived through your senses.
  - Usually cannot testify to what someone else told you (hearsay)
- **Expert witness:** subject beyond common experience that will assist the judge or jury (trier of fact) in arriving at a verdict and expertise from training, education, experience, skill, or knowledge
  - Does not require an advanced degree
- APS is most often called as a lay witness. But there are times when APS professionals testify as expert witnesses

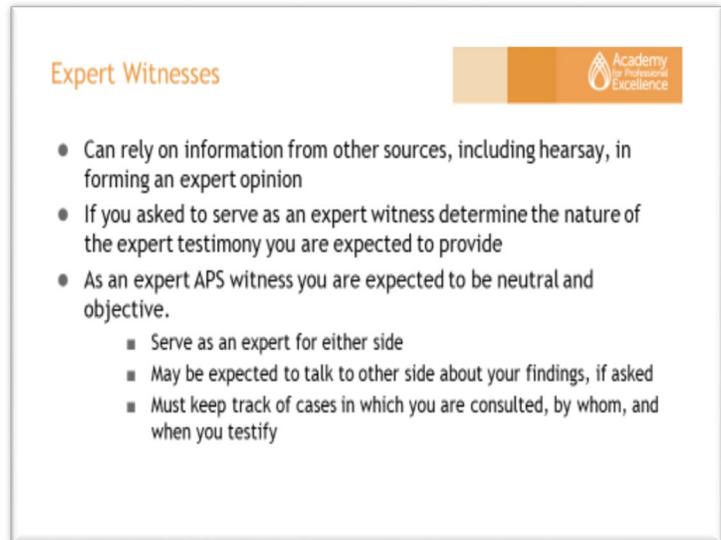
**Explain** that there are two kinds of witnesses: lay and expert

- **Lay Witness:** what you know personally as perceived through your senses.
  - Usually cannot testify to what someone else told you (hearsay)
- **Expert witness:** subject beyond common experience that will assist the judge or jury (trier of fact) in arriving at a verdict and expertise from training, education, experience, skill, or knowledge
  - Does not require an advanced degree

APS is most often called as a lay witness. But there are times when APS professionals testify as expert witnesses.

**Ask:** Can you think of some topics in which you might be called as an expert?

Possible Responses: aging, community resources and elder benefits, common reactions of clients, why did not report abuse

**Slide #47: Expert Witnesses**

The slide is titled "Expert Witnesses" and features the logo of the Academy for Professional Excellence in the top right corner. The logo consists of a stylized orange and white emblem next to the text "Academy for Professional Excellence".

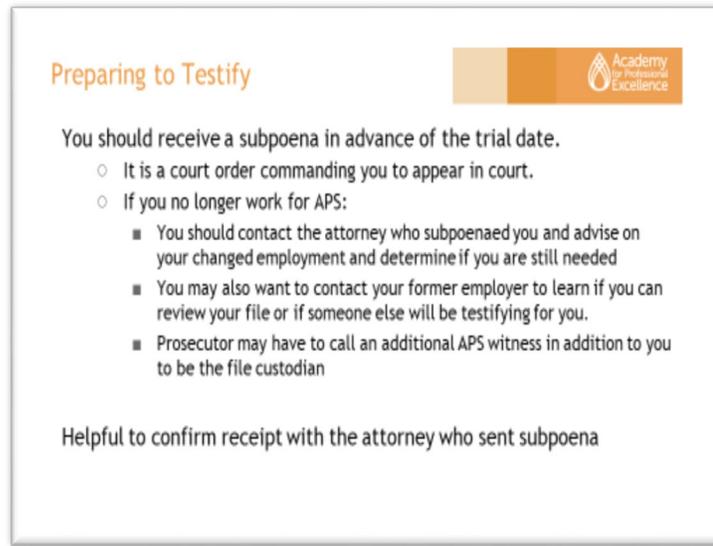
- Can rely on information from other sources, including hearsay, in forming an expert opinion
- If you asked to serve as an expert witness determine the nature of the expert testimony you are expected to provide
- As an expert APS witness you are expected to be neutral and objective.
  - Serve as an expert for either side
  - May be expected to talk to other side about your findings, if asked
  - Must keep track of cases in which you are consulted, by whom, and when you testify

**Explain** that expert witnesses can rely on information from other sources, including hearsay, in forming an expert opinion.

If you are being asked to serve as an expert witness determine the nature of the expert testimony you are expected to provide.

Remind participants that as an expert witness you are expected to be neutral and objective.

- Serve as an expert for either side
- May be expected to talk to other side about your findings, if asked
- Must keep track of cases in which you are consulted, by whom, and when you testify

**Slide #48: Preparing to Testify**

**Preparing to Testify**

You should receive a subpoena in advance of the trial date.

- It is a court order commanding you to appear in court.
- If you no longer work for APS:
  - You should contact the attorney who subpoenaed you and advise on your changed employment and determine if you are still needed
  - You may also want to contact your former employer to learn if you can review your file or if someone else will be testifying for you.
  - Prosecutor may have to call an additional APS witness in addition to you to be the file custodian

Helpful to confirm receipt with the attorney who sent subpoena

**Explain:**

You should receive a subpoena in advance of the trial date.

- **Ask:** “What is a subpoena”?
  - Emphasize it is a court order commanding you to appear in court. It is not an invitation. You must appear unless you make other arrangements with the side that has subpoenaed you.
- **Ask:** Do you have to go if you no longer work for APS?
  - You should contact the attorney who subpoenaed you and advise on your changed employment and determine if you are still needed.
  - You must appear and testify unless you are excused by the side that planned to call you to testify.

**Slide #49: Tips for Testifying**



### Tips for Testifying

Handout #8-Tips for Testifying

- Meet with Counsel
- In Court
- When Testifying
- Can you take notes with you to the witness stand?
- Prepare, prepare, prepare. YOU MUST KNOW YOUR CASE



**Ask:**

- By a show of hands, how many have ever met with Counsel prior to testifying in any type of court procedure as an APS professional?
- By a show of hands, how many would like to meet with Counsel if ever subpoenaed?

**Refer** participants to **Handout #8-Tips on Being a Witness** and allow 3-5 min for them to review.

**Explain** that this handout covers some before and during tips for testifying and they can review if ever subpoenaed.

**Point out** the last bullet on the slide. The best tip we can provide is to:

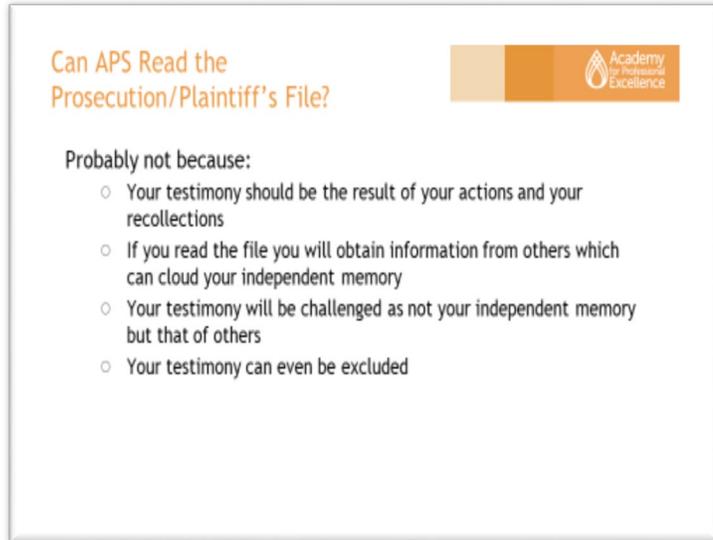
- Prepare, prepare, prepare. YOU MUST KNOW YOUR CASE

**Tips on Being a Witness**

**HANDOUT #8**

Issue	Suggestions
<p><b>Attributes of an Effective APS Witness</b></p>	<ul style="list-style-type: none"> <li>○ Prepared</li> <li>○ Honest</li> <li>○ Careful listener</li> <li>○ Professional</li> <li>○ Not an advocate</li> <li>○ Not argumentative</li> <li>○ Tell only what you know</li> </ul>
<p><b>When You Receive a Subpoena</b></p>	<ul style="list-style-type: none"> <li>○ Subpoena or informal notification depending on local practice</li> </ul>
<p><b>Steps to Prepare to be a Witness</b></p>	<ul style="list-style-type: none"> <li>○ If applicable, carefully review the file and any notes you may have made</li> <li>○ Contact the attorney handling the matter</li> <li>○ Schedule time to discuss case, preferably in person, and ideally prior to the court date</li> </ul>
<p><b>The Pre-Trial Meeting With Counsel</b></p>	<ul style="list-style-type: none"> <li>○ Determine                             <ul style="list-style-type: none"> <li>▪ the nature of the proceeding</li> <li>▪ the issues and what the attorney expects to prove through your evidence</li> <li>▪ your role-- are you being called as an expert or lay witness</li> <li>▪ anticipated attacks and perceived weaknesses in the case and with your evidence</li> <li>▪ the likely areas of cross examination</li> </ul> </li> <li>○ Examine every exhibit you may be asked about on direct or cross</li> <li>○ If you are testifying as an expert review any hypothetical question you will be asked to address</li> <li>○ Determine if any subjects or evidence have been excluded by the court.</li> <li>○ Ask for a specific date and time to testify or to be placed on stand-by status</li> <li>○ <b>Be candid about what you can and cannot say. Do not let an attorney put words in your mouth.</b></li> </ul>
<p><b>In Court</b></p>	<ul style="list-style-type: none"> <li>○ Dress appropriately                             <ul style="list-style-type: none"> <li>▪ You are a professional</li> <li>▪ Reflects on your credibility</li> </ul> </li> </ul>

<p><b>When Testifying</b></p>	<ul style="list-style-type: none"> <li>○ Listen carefully</li> <li>○ Do not volunteer information</li> <li>○ Don't try to "fake it"</li> <li>○ Testify only to what you know</li> <li>○ If you don't know - just say so.</li> <li>○ Never guess or over reach</li> <li>○ If you are asked a yes or no question, respond with a yes or no answer.</li> <li>○ If you need to expand on an answer, say so and wait for another question if you need to clarify an answer</li> <li>○ Listen to the question carefully and completely before answering</li> <li>○ If you do not understand the question ask to have it repeated or clarified</li> <li>○ If you forget a question you can ask to have it repeated</li> <li>○ Remain calm and professional; do not become angry or emotional</li> <li>○ Refrain from using humor in nearly any courtroom setting; court is a serious place</li> </ul>
<p><b>If an objection is made when a question is asked</b></p>	<ul style="list-style-type: none"> <li>○ If there is an objection to a question, wait for the court to rule before answering.             <ul style="list-style-type: none"> <li>▪ "Overruled" means answer the question</li> <li>▪ Sustained means do not answer</li> </ul> </li> <li>○ If you have forgotten the question you can ask to have the question repeated</li> </ul>
<p><b>Can you take notes with you to the witness stand?</b></p>	<ul style="list-style-type: none"> <li>○ Varies by jurisdiction so check with the attorney calling you</li> <li>○ If permitted, anything you look at may be subject to discovery and review by opposing side's attorney</li> </ul>
<p><b>What If?</b></p>	<ul style="list-style-type: none"> <li>○ You forget something             <ul style="list-style-type: none"> <li>▪ The attorney can refresh your memory</li> </ul> </li> <li>○ You misstate something             <ul style="list-style-type: none"> <li>▪ Attorney can refresh memory</li> <li>▪ Attorney can use a prior inconsistent statement you have made</li> </ul> </li> </ul>

**Slide #50: Can APS Read the Prosecution/Plaintiff's File?**

Can APS Read the Prosecution/Plaintiff's File?

Probably not because:

- Your testimony should be the result of your actions and your recollections
- If you read the file you will obtain information from others which can cloud your independent memory
- Your testimony will be challenged as not your independent memory but that of others
- Your testimony can even be excluded

Ask the group if they can read the prosecutor's (or attorney calling them) entire file?

Take a few comments but then should **comment**:

Probably not because:

- Your testimony should be the result of your actions and your recollections
- If you read the file you will obtain information from others which can cloud your independent memory
- Your testimony will be challenged as not your independent memory but that of others
- Your testimony can even be excluded

**Slide #51: Objections**

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- Challenges to questions based on legal grounds
- Many objections - you do not need to understand them but need to know what to do
- "I object. The question is.../calls for..." STOP SPEAKING and listen for court's ruling
  - Overruled—the objection is without merit, ANSWER THE QUESTION once you are told to do so by the judge.
    - If you do not recall the question you can ask for it to be repeated
  - Sustained—the objection is proper, DO NOT ANSWER THE QUESTION
    - Wait for a new question



**Discuss:**

Objections are challenges to questions based on legal grounds

- Many objections - you do not need to understand them but need to know what to do
- "I object. The question is.../calls for..." -STOP SPEAKING and listen for court's ruling
- Overruled—the objections is without merit, ANSWER THE QUESTION once you are told to do so from the judge.
  - If you do not recall the question you can ask for it to be repeated
- Sustained—the objection is proper, DO NOT ANSWER THE QUESTION
  - Wait for a new question

**Slide #52: What if I Forget?**

**What If I Forget?**

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- We are all human and have memory slips. Court can be stressful and we may momentarily forget something we really know.
- When that happens in court there are procedures to help.
  - Refresh memory
  - Past recollection recorded
- If you misspeak
  - Acknowledge the error
  - Indicate you know the correct answer
  - Answer with the correct answer



**Explain:**

We are all human and have memory slips. Court can be stressful and we may momentarily forget something we really know.

When that happens in court, there are procedures to help.

- Refresh memory
- Past recollection recorded

If you misspeak

- Acknowledge the error
- Indicate you know the correct answer
- Answer with the correct answer

Refer participants to **Handout #8-Tips on Being a Witness** in Participant Manuals.

**Slide #53: Direct Examination**

Direct Examination



- Be able to talk about yourself and your work
  - Job, how long, duties
  - What is APS
  - What you do
  - What you do not/cannot do
  - Education and training
  - Work experience



**Discuss:**

- Be able to talk about yourself and your work
  - Job, how long, duties
  - What is APS
  - What you do
  - What you do not/cannot do
  - Education and training
  - Work experiences

**Activity #12- Mock Direct (7-10 min)**

1. **Conduct** a brief mock direct using people in classroom and **Handout #3- Sample Documentation** (case of daughter Cheri and son Jeff)
2. **Inform** everyone that they are all witnesses, and you will be calling on various people throughout this exercise.
3. **Provide** them 3 minutes to review **Handout #3** again and let them know they can access that handout for purpose of this activity.

Q. Are you employed? By whom?

Q. What is APS?

Q. What are your duties?

Q. What is your education that prepared you to do this work?

Q. What degrees do you hold (if any)?

Q. Once you joined APS did you receive any training to prepare you to carry out your responsibilities?

Q. How many cases do you have at a given time (approximately)?

- Q. What percent are financial abuse? Neglect?
- Q. How do you receive your cases?
- Q. Are you the APS professional on the matter of Jeff Davis and his mother, Margaret?
- Q. When did you receive the case? What was the allegation?
- Q. When is the first time you had contact with your client, Margaret Davis?
- Q. Where did that contact occur?
- Q. What did you observe about her that day?
- Q. Was anyone else present when you arrived?
- Q. What is Cheri's relationship with Margaret Davis?
- Q. Did you speak with anyone else that day at the hospital?

**Slide #54: Maintaining Your Professional Edge**



### Maintaining Your Professional Edge

- Create and regularly update your CV or professional resume
- What should be included
  - Education including courses relevant to APS work, degrees, certificates, CEUs
  - Training - class, length, when completed, key topics covered
  - Experience—# of cases handled as APS, approximate # by case type
  - Any supervisory duties
  - Serve on MDT or CCR
  - Have you ever served as an expert witness (if you are an expert witness)
    - Consulted by which side (keep list of cases)
    - Nature of proceedings (e.g., criminal, probate)
    - Courts, tribunals
    - Testified as expert
  - Trainings and presentations conducted
  - Any writings for or about APS

**Explain:**

- It is important that each of you creates and regularly updates your Curriculum Vita (CV) or professional resume
- What should be included
  - Education including courses relevant to APS work, degrees, certificates, CEUs
  - Training - class, length, when completed, key topics covered
  - Experience—number of cases handled as APS, approximate number by case type
  - Any supervisory duties
  - Serve on MDT or CCR
  - Have you ever served as an expert witness (if you are an expert witness)
    - Consulted by which side (keep list of cases)
    - Nature of proceedings (e.g., criminal, probate)
    - Courts, tribunals
    - Testified as expert
  - Trainings and presentations conducted
  - Any writings for or about APS

**Refer to Handout #9** for sample outline

**HANDOUT #9**

**Field Experience**

<b>Total Number of cases investigated</b>	
<b>Number of cases where supervised another</b>	

**Number of Interviews of:**

<b>Elders</b>	
<b>Alleged Perpetrators</b>	
<b>Collaterals</b>	

**Prior Court Cases**

<b>Role in Case</b>	<b>Number of Times Testified</b>
<b>APS Worker</b>	
<b>APS Supervisor</b>	
<b>Expert</b>	

**Testified as Expert Witness in EA Case**

<b>Name of Case</b>	<b>Type of Court**</b>	<b>Date</b>	<b>Court Number/Docket</b>	<b>Side Calling You</b>	<b>Notes</b>

**EDUCATION**

Name	Type	Date	
College			
Post Graduate Education			

**TRAINING ATTENDED**

Course Name	Length	Relevant Topics	Date	Where Course Given	Misc

**RELEVANT DEGREES AND CERTIFICATES**

- 1.
- 2.

**TRAININGS PROVIDED**

Name of Presentation	Length	Date	Sponsor of Training

--	--	--	--

**Articles Written**

1.

**Awards and Recognition**

1.

**Number of Consultations**

**Prosecution; Criminal Defense; Civil Attorney, Probate Attorney; Others (List)**

**Slide #55: Getting More Instruction About Testifying**

Getting More Instruction About Testifying



- MDT cross trainings on testifying
- Inviting attorneys to attend APS training to offer training on testifying
- Going to court and observing other APS professionals testifying



**Ask the class:** “Where can you get more instruction about testifying in court?”

Possible answers:

- MDT cross trainings on testifying
- Inviting attorneys to attend APS training to offer training on testifying
- Going to court and observing other APS professionals testifying
- County Counsel and Prosecutor

## CRIMES AND ELEMENTS

**Time Allotted: 60 Minutes**

**Slides #56: Crimes and Elements  
& #57: Review Points**

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Crimes and Elements

- What did you learn in the core curriculum (ILT or eLearning) about crimes?



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Review Points

- › Crimes are composed of building blocks called elements
- › Must prove every element beyond a reasonable doubt
  - This is how the Criminal Justice System evaluates if a case can be proven
- › Need to be familiar with common crimes to recognize possible criminal conduct
- › Best way to build a case is “evidence-based”
- › What does “evidence-based” case building mean?

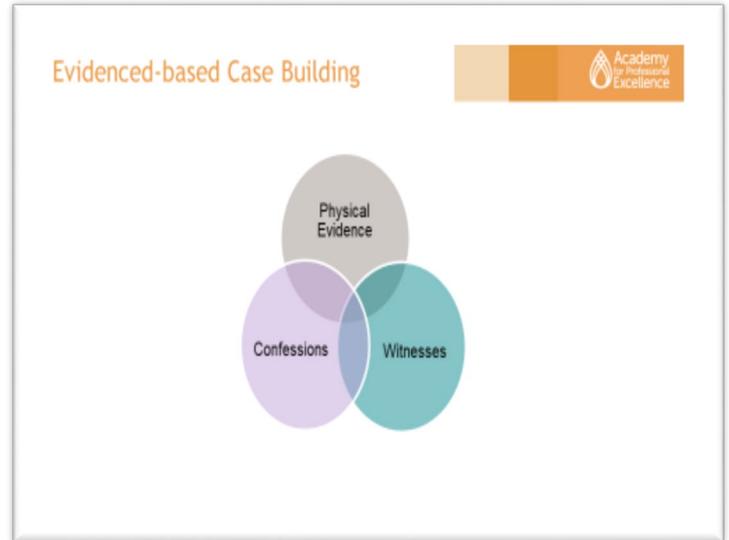


**Ask:** “Who can remind us from the core curriculum how to read a crime statute?”

Elicit a few answers and **explain:**

- Crimes are composed of building blocks called elements
- Must prove every element beyond a reasonable doubt
  - This is how the Criminal Justice System evaluates if a case can be proven
- Need to be familiar with common crimes to recognize possible criminal conduct
- Best way to build a case is “evidence-based”

**Ask:** What does “evidence-based” case building mean?

**Slide #58: Evidence-Based Cases**

**Remind** participants to think about case building using at least 2 of these categories, with extra emphasis on physical evidence.

**TRAINER NOTE: This is a review from Core Curriculum, Module 22, so there is no need to spend time on the content if most have taken the core. It is offered here as it will help participants understand how to prove elements in a case coming up shortly.**

**Slide #59, #60 and #61: Penal Code 368**

**Penal Code §368** 



- Elders- person 65 years or older
- Dependent adults–
  - 18 to 64
  - has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights,
    - including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.
    - Persons admitted as an inpatient to a 24-hour health facility

**Crimes in Penal Code §368** 

**“Caretaker” ++**

- Neglect
- Caretaker financial abuse

+++Must prove suspect was a caretaker- had the care and custody of, or who stands in a position of trust with, an elder or dependent adult



**“Any Person”\*\***

- Infliction of physical pain
- Infliction of mental suffering
- Financial abuse
- False Imprisonment

\*\*Must prove perpetrator knew or reasonably should have known the victim was an elder or dependent adult.

**Crimes in PC §368 Continued** 

- Felony infliction of physical pain, mental suffering, and caretaker neglect if under circumstances likely to produce great bodily injury or death
  - Misdemeanor under less serious circumstances
- Felony if financial abuse if loss/taking exceeds \$950.00
  - Misdemeanor if lesser amount of loss/taking
- False imprisonment using fraud, deceit, violence, or menace is always a felony

**Explain** that we will quickly review what we know about identifying the elements of a crime.

**Review** the crimes in PC 368 as shown on the next 3 slides.

**Refer** participants to **Handout #10- Penal Code Section 368- Elder/Vulnerable Adult Abuse** in the Participant Manual as well as the abbreviated version on the slides

**Penal Code Section 368 (Summary)****HANDOUT #10****Penal Code Section 368-Elder/Dependent Adult Abuse****Penal Code Section 368—Included Conduct**

Any person ...having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not to exceed six thousand dollars (\$6,000), or by both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years.

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

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

Any person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not to exceed six thousand dollars (\$6,000), or by both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years.

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

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

**Financial Abuse (368(d))**

Any person who is not a caretaker who violates any provision of law proscribing theft, embezzlement, forgery, fraud, or identity theft, with respect to the property or personal identifying information of an elder or a dependent adult, and who knows or reasonably should know that the victim is an elder or a dependent adult, is punishable ...

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

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

**Financial Exploitation by a Caretaker (368(e))**

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

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

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

"Caretaker" means any person who has the care, custody, or control of, or who stands in a position of trust with, an elder or a dependent adult.

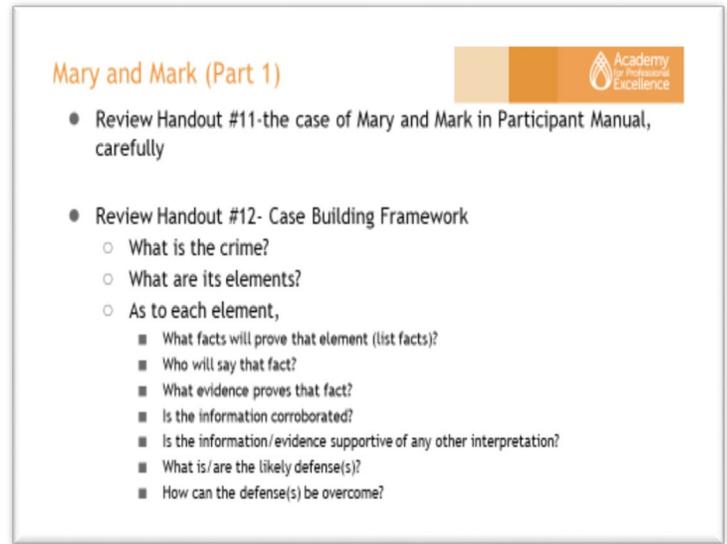
### **False Imprisonment of an Elder (368(f))**

Any person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable ...

"False imprisonment is the unlawful violation of the personal liberty of another." (Penal Code 236)

**Slide #62: Mary and Mark (Part 1)**

**Trainer Note: This activity is broken down into multiple sections. 1. Review the case (Handout #11). 2. Review Case Building Framework with Elements Chart (Handout #12). 3. Review Proving Elements (Handout #13). 4. Together as a large class, ask three questions about proving elements and discuss justifications and evidence (as related to elements chart). 5. Individually, have them use the case building framework to prove theft in Mary and Mark's case.**



**Mary and Mark (Part 1)**

- Review Handout #11-the case of Mary and Mark in Participant Manual, carefully
- Review Handout #12- Case Building Framework
  - What is the crime?
  - What are its elements?
  - As to each element,
    - What facts will prove that element (list facts)?
    - Who will say that fact?
    - What evidence proves that fact?
    - Is the information corroborated?
    - Is the information /evidence supportive of any other interpretation?
    - What is /are the likely defense(s)?
    - How can the defense(s) be overcome?

**Activity #13: Mary and Mark (Part 1)- 25 min.**

Explain that we will be analyzing the case of Mary and Mark to determine if the crime of financial exploitation can be charged and proven. We will do this activity together as well as individually using Handouts #11-13

1. Give 5-7 min for participants to carefully read over **Handout #11- Mary Portnoy and Mark Johnson**
2. Introduce **Handout #12-Case Building Framework**
  - a. Explain that this is a way to visualize your evidence to assure that you have addressed all the elements of a crime and considered possible defenses or justifications.
  - b. Walk participants through the framework by heading and remind participants if something cannot be proven it means that further investigation may be required or that the crime cannot be proven and the suspect is not legally accountable for that crime.

**Mary Portnoy and Mark Johnson****HANDOUT #11****Report to APS:**

Allegation of financial exploitation and isolation of Mary Portnoy, age 82.

Report to APS made by Mary Portnoy's niece, Linda Spencer, after she received calls from Mary's neighbor, Sam Gregory.

**Social History:**

- Mary Portnoy is 82. She is legally blind and suffers from shortness of breath due to chronic obstructive pulmonary disease and other respiratory problems. She has great difficulty moving around. She has not ever driven a car.
- She was married to husband Richard for more than 50 years. He died about 18 months ago of cancer.
- She and her husband lived in the same home for nearly all of their marriage. Mary loves her home and is able to move around as it all on one story. 6 months ago she told her niece Linda that she would never leave her home and that she intended to leave it to Linda.
- Mary and her husband did not have children but were very close with other family members including niece Linda who visited several times a year though she lives some 400 miles away.
- Linda is married and has 2 high school age children of her own. She and her spouse are both teachers.

**Financial Information:**

- 25 years ago Mary and Richard established two trusts, worth more than a million dollars, for Mary's benefit. Mary was named the sole beneficiary of one trust. Mary and Niece Linda were the beneficiaries of the second trust. The trustee is family friend, Everett Green.
- Mary has had a checking account and a savings account at City Bank for over 40 years. She is well known to the branch manager, Frances King, as a longtime customer. When Mary visits the bank Frances often invites her into her office to have coffee.
- Mary's bank accounts at City Bank are valued at over \$250,000.

**Mary's Increasing Needs:**

- Mary has employed a gardener, Mark Johnson, for the last 3 years. He comes weekly to cut the grass, trim hedges, and plant flowers and is paid \$100.00 a month. On his visits he and Mary often chat. She enjoys the company and his ability to make her laugh.
- Six months ago she needed to see her doctor and Mark offered to drive her instead of using a taxi. She agreed. Since then, Mark has begun taking her to her doctor's appointments, the bank, the hairdresser, and to an occasional movie. Mary is appreciative of his help and enjoys his company. She pays Mark for his time, usually about \$100.00 each time.

- In the last 3 months Mark has taken over her grocery shopping, helps her pay bills, reads her mail for her, and has taken her dog to the groomer. Mary is appreciative as her vision is making it difficult for her to manage these tasks.
- Mark has 2 children in their early twenties, Tina and Billye. Mark has arranged for them to clean Mary's home. Mary does not know that Mark fired Mary's long time cleaner. Mark told Mary the cleaner had quit after a death in her family.
- Mary is becoming confused about her finances and is grieving for her late husband. Her doctor has prescribed medication to help with her depression symptoms. The medicine makes her tired and she has difficulty concentrating. Her late husband always handled the finances and Mary does not understand all the arrangements he put into place.

#### Changing Financial Picture:

- Because of Mary's confusion and difficulty understanding the financial arrangements Mark offered to help Mary by becoming her power of attorney for financial matters. He suggested that she should be examined by a doctor to see if she is capable of executing the POA. She agreed. She wanted to see her old doctor but was told he was not the "right kind of doctor."
- Mark took her to a doctor she did not know. Mark drove her to the appointment and accompanied her as she met with the doctor. The doctor talked with her for about 20 minutes, asked her if she knew where she was, the date, and the name of the President.  
He then asked her if she wanted Mark to be her POA agent to handle her financial matters and she said yes. The attorney handed her a document and asked her to read and sign it. He did not ask if she could read the print or if she understood what she was signing. She signed the document.
- Over the next month, Mark made numerous withdrawals from Mary's accounts at City Bank. Frances King, the bank manager became concerned because the amount was far more than Mary had ever spent in a month and tried to contact Mary. The call was answered by a man who said Mary was unable to come to the phone. The bank manager tried to speak with Mark when he came to the branch but he refused to talk with her. Thereafter he stopped coming inside the branch and did his banking at the ATM.
- Mark tried to make withdrawals from the trusts for the purchase of a truck and for other expenditures in an amount of \$540,000 but was prevented by the trustee, Everett Green.
- Neighbors tried to see Mary several times but were turned away by Mark or one of his daughters.
- Neighbors saw a for sale sign on Mary's property and again tried to contact Mary to no avail. The house sold quickly.

- Mark purchased a small condominium with many stairs in a neighborhood across town and moved Mary there. Linda learned of the move when Frances, the bank manager, contacted her.
- **Linda reported the case to APS**

#### The APS Investigation:

- Interviewed niece Linda who said that she visited Mary 4 months ago and observed the following:
  - Mary did not appear to be eating properly; there were no signs of dishes
  - Mary was confused about her age
  - Mary was alone much of the time but had nothing to do with her former long-time neighbors or her long-time friends
  - Mary was now showing her financial documents to other people and talking about her financial matters with them. She had previously been very private about her financial matters, so this behavior was unusual.
- Spoke to broker who handled sale of Mary's longtime home
  - Mark represented himself as the agent under a POA with authority to make the sale
  - Never met Mary but was told she now lived in a nursing home
  - Will provide relevant documents
  - Home sold for \$479,000. Agent presented Mark with the check for the sale as the POA.
- Spoke to the real estate broker for the purchase of the condominium
  - Mark's name is on the title to the condominium
  - The property is not accessible and there is no elevator
  - The property was purchased "as is" and needs remodeling and a new heating and cooling system
  - She only dealt with Mark who said the property was a "flip"
  - She never met Mary
  - Can identify Mark
  - Will provide all sales documents
  - Property paid for with check drawn on Mary's account in amount of \$280,000.00
- Spoke to Frances King, City Bank manager
  - Confirmed spending from accounts at City Bank exceeding \$329,000.00 in 3 months
    - Will provide bank records and ATM tapes
  - Confirmed efforts to reach Mary without success and called niece Linda about her concerns
  - Has seen Mary's condition deteriorating in last 6 months—is confused, has called Mark by her late husband's name, looks less kempt, has worn

- mismatched clothes which is very uncharacteristic), and defers to Mark in making financial decisions.
  - Can identify Mark
- Spoke to Client, Mary Portnoy
  - She sold her house and moved into the condominium because Mark was concerned that her old house was unsafe.
  - Said that she had not met any neighbors in the condo subdivision and that she did not keep in touch with any of her old friends.
  - Says that she and Mark were going to be married.
- APS arranged for a psych assessment at Mary's home. The Police Department (PD) had to be called in to secure the situation. The psych assessment indicates:
  - Mary is limited by vision problems and dependent upon Mark and easily manipulated by him.
  - She is uninformed about his actions with her finances and true marital intentions.
  - Her cognitive functioning is estimated to be in the low average to average range; she demonstrates severely impaired verbal short-term memory, poor verbal fluency, and mildly impaired judgment.
  - Over the last 6 months she has had a history of depression and anxiety. Her medical and memory problems are increased by stress. Mary completed the 11<sup>th</sup> grade and worked in a restaurant prior to her marriage but has not worked outside the home since that time.
- Spoke with Mark who was present during a home visit with Mary
  - Says that neighbors were nosy and that they bad-mouthed him to Mary and that he had moved her out of that terrible neighborhood.
  - Said in front of Mary that Mary's husband didn't do anything with her and that her late husband had committed suicide.
  - Mark does not live with Mary in the condominium. He lives with his two daughters about 20 minutes away from the condominium.
  - Says he is very fond of Mary but that is all.
  - Says he acted in Mary's best interest as her POA agent
  - Said he could not find his POA paperwork but would locate it and share with APS
  - Says he has stopped working and spends all his time helping Mary

#### Other Interviews by APS:

- Attorney Who Prepared the New POA
  - Said could not say much about meeting due to attorney-client privilege

- Said he felt that Mary knew what she was doing and wanted Mark to be her decision maker
- Said he could produce a copy of the POA if subpoenaed
- Mary's former Attorney Florence Samson
  - Said she had written to Mark after becoming concerned about Mark's withdrawals from Mary's trust.
  - Said that several checks had been written to cash and that in the letter she had asked Mark to account for the cash.
  - Within two weeks of mailing the letter, Mary's trust account was transferred to another bank.
- Mary's Medical Doctor stated that Mark had accompanied Mary for all recent medical appointments.
- Trustee Everett Green
  - Had refused previous attempts to name Mark as a beneficiary of the trusts.
  - Said that Mary, in the presence of Mark, had asked for money so that Mark could purchase a truck for Mary. Mary said that Mark needed the truck in order to drive her.
  - Reported to APS that Mary had appointed Mark as her agent for her Power of Attorney and that Mark was trying to liquidate the trust.

**Case Building Framework****HANDOUT #12**

The Crime is:

The Legal Elements are:

Element 1:

What facts will prove that element (list facts)?

- a. Who will say that fact?
- b. What evidence proves that fact?
- c. Is the information corroborated?
- d. Is the information/evidence supportive of any other interpretation?
- e. What is/are the likely defense(s)?
- f. How can the defense(s) be overcome?

Element 2:

What facts will prove that element (list facts)?

- a. Who will say that fact?
- b. What evidence proves that fact?
- c. Is the information corroborated?
- d. Is the information/evidence supportive of any other interpretation?
- e. What is/are the likely defense(s)?
- f. How can the defense(s) be overcome?

## Element 3:

What facts will prove that element (list facts)?

- a. Who will say that fact?
- b. What evidence proves that fact?
- c. Is the information corroborated?
- d. Is the information/evidence supportive of any other interpretation?
- e. What is/are the likely defense(s)?
- f. How can the defense(s) be overcome?

## Element 4:

What facts will prove that element (list facts)?

- a. Who will say that fact?
- b. What evidence proves that fact?
- c. Is the information corroborated?
- d. Is the information/evidence supportive of any other interpretation?
- e. What is/are the likely defense(s)?
- f. How can the defense(s) be overcome?

## Element 5:

What facts will prove that element (list facts)?

- a. Who will say that fact?
- b. What evidence proves that fact?
- c. Is the information corroborated?
- d. Is the information/evidence supportive of any other interpretation?
- e. What is/are the likely defense(s)?
- f. How can the defense(s) be overcome?

**Slide #63: Proof Elements**

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**Proof Elements for PC §368**

- How would you prove that a non-caregiver knew or reasonably should have known that the victim is an elder?
- How would you prove that the suspect is the victim's caretaker?
- How would you prove that the circumstances are those likely to result in great bodily injury or death?



**Activity #14: Proving the Elements (10-15 min)**

**Have** participants review Handout #13. **Remind** participants that in an elder or dependent adult abuse case there are basic elements that must be proven. Handout #13 lists those often-overlooked elements. We will work with just three of these elements.

As a large group, go over the following 3 questions regarding the case of Mary and Mark. Remind participants they can use **Handouts #12 and #13**.

1. **Ask:** How would you prove that a non-caregiver knew or reasonably should have known that the victim is an elder?
  - a. Possible answers: length and nature of the relationship, participation in family events such as birthday parties, victim's appearance, mental state, statements made by the victim or the suspect evidencing knowledge. Need to identify who will testify to those statements
2. **Ask:** How would you prove that the suspect is the victim's caretaker?
  - a. Possible answers: employment agreements and documents, pay sheets, medical providers, legal documents such as a POA or conservatorship/guardianship appointment, bank records showing accounts are on behalf of or acting as POA or trustee, suspect statements, family members
3. **Ask:** How would you prove that the circumstances are those likely to result in great bodily injury or death?
  - a. Possible answers: actual injuries or conditions caused by the suspect's actions, medical opinion, medical records including x-rays, photographs, securing of instruments that caused the injury or were displayed, expert testimony on mechanism of force and what it can do to an elder in victim's situation

At end of activity, **conclude** by highlighting that it is easy to overlook these elements of the crime of elder and vulnerable adult abuse but like all other crimes, elements must be proven beyond a reasonable doubt.



**Slide #64: Activity: Mary and Mark (Part 2)**

**Activity: Mary and Mark (Part 2)** 

- Individually, use Handouts #12 & #13 and look at PC 368 (d) and (e) to prove THEFT and value over \$950.
  - THEFT: “to steal, take, or carry away the personal property of another”
- Fill in the elements using information and witnesses in the case file
- Include any defenses in the defenses column and add any evidence that supports or refutes the defense claim
  - You have **15 minutes**

**Activity #15: Mary and Mark (Part 2)-15 min**

**Inform** participants to take 15 minutes, individually, using **Handout #12** to prove theft under PC 368 (d) and (e)

- **Explain** they need to fill in the elements using information and witnesses in the case file.
- Include any defenses in the defense column and add any evidence that supports or refutes the defense claim.

**Slide #65: Activity: Mary and Mark (Part 3)**

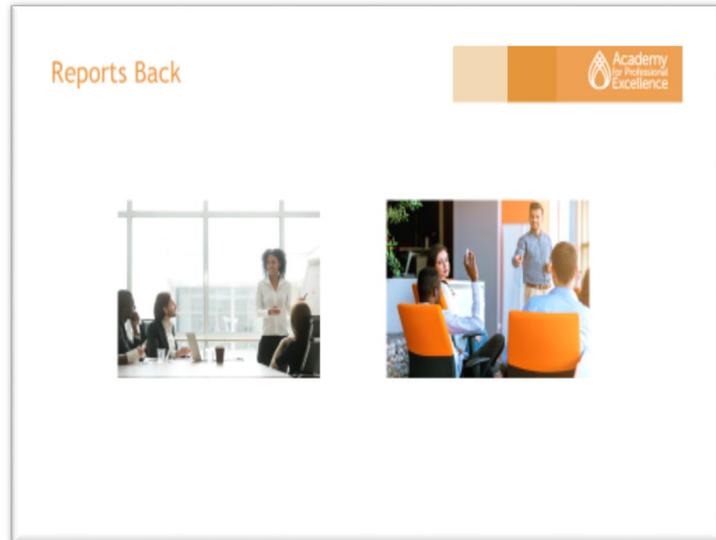
Activity: Mary and Mark (Part 3)

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- **Individually** write a 1 minute case overview for the prosecutor highlighting what the prosecutor needs to know to want to prosecute your case

**Activity #16: Mary and Mark (Part 3): 7-10 min**

Ask participants to individually write a 1-minute case overview for the prosecutor, highlighting what the prosecutor needs to know in order them to want to prosecute your case.

**Slide #66: Report Back****Report Back: 10-15 min**

1. **Select** a person at 1-2 tables to present their completed elements chart.
2. **Select** 2-3 persons from other tables to present their 1-minute case overview to the prosecutor

**Trainer Note: Possible answers are on the next page and there for you to do as a review, to highlight any missed by participants.  
For the 2<sup>nd</sup> portion of this Report Out, set a timer on your phone or with a timer and when the timer goes off, participants must stop!**

3. **Close** activity by **asking** class what they learned from the activity.
  - a. Take 2-3 comments and then congratulate participants on completing a complex and challenging assignment.
  - b. **Explain** the value is seeing a case for the objective evidence to determine if case can be proven in a criminal court.
  - c. This is how CJS evaluates the case and the involvement of APS
  - d. This will make your other cases stronger should your work or findings be challenged.
  - e. The 1-minute overview is to force APS professionals to focus on what the CJS needs to know. APS needs more and different information than the CJS does. APS professionals are not always aware of the CJS “world view” and can unintentionally overlook what the CJS needs to know and even provide information that the CJS should not have.

**Possible answers for Case Framework:**

## Case Analysis:

The Crime is: Penal Code 368 (d) or (e)

Elements:

1. Taking from an elder
  - a. Evidence: Government Identification, medical records, Medicare records, birth certificate
  - b. Witnesses: If able to testify—Mary; Niece Linda; Bank Manager Frances King; Trustee Everett Green; Former Attorney Florence Samson
  - c. Defenses: None Really whether she can testify or not.
2. By a:
  - a. Caretaker
    - i. Evidence: Drives Mary to medical and other appointments; Purchases groceries, helps pay bills, Has POA for finances, Completes financial transactions, represented self as POA agent to broker who sold Mary's longtime home and received sales check
    - ii. Witnesses: APS professional who interviewed Mark and was told he has POA authority; Broker who sold Mary's home; attorney who prepared the POA; Mary's doctor; Bank Manager Frances King
    - iii. Defenses: Not really—he held self out as POA. He also arranged for POA to be created. His defenses are as her POA he acted in her best interest.
  - b. "Any person" (not a caretaker)
    - i. Knows or reasonably should know victim is an elder:
      1. Witnesses: Niece Linda, bank manager Frances King, Long Time Doctor, Neighbors, APS professional(observations about Mary's appearance, abilities, items in plain view in Mary's home; statements about Mary made by Mark), Mark's daughters unless charged or claiming 5<sup>th</sup> Amendment protections to not incriminate themselves
      2. Not really. Several sources beyond Mary can describe her and her obvious age. He also was there so often and took on many functions that he can be shown to have known or should have known.
  - c. By forgery, embezzlement, theft, fraud, identity theft personal property or identifying information
    - i. Theft by false pretenses:
      1. False Pretenses: Get married, fired long time cleaner so he could have his daughters do so; refused to have Mary evaluated by her doctor because he was not the "right kind of doctor"; lied when told broker of Mary's home that Mary was living in a SNF

- 
- a. Witnesses: Mary (plan to get married); APS professional (statement by Mark that no such plans); former house cleaner; broker
  - b. Defenses:
    - i. Not theft—acted in her best interest and to help her. Purchases not in her interest, condo in his name; condo was inappropriate for her needs (stairs, knew no one, her whereabouts kept from old neighbors), her medical needs not met (increasing confusion, declining mental and cognitive functioning)
    - ii. Did not steal. Accepted reasonable compensation for his valuable services and to which he was entitled. Financial expert showing where money went and for what; how did not match value of his services; her fortunes diminished while his improved;
    - iii. Acted with consent—undue influence; lacked capacity to give consent; denied access to her long - term doctor, attorney, isolated from friends and neighbors, deceitful or misleading statements (getting married; change of doctor and lawyer and reasons provided, withheld information about liquidating the trusts.
  - c. Embezzlement: legally entrusted with funds as POA, then misused them for own benefit.
    - i. Witnesses: broker who sold Mark the condo in his name only, Everett Green
    - ii. Purchases for his own benefit—tried to buy a truck, liquidate the trusts
    - iii. Same defenses and responses to defenses as for false pretenses
3. Loss (above or under \$950)
- a. Evidence—Bank statements, canceled checks, ATM photos, home sale documents, correspondence with Mark regarding funds, trust documents regarding expenditures; title document for condo in Mark's name only
  - b. Witnesses—Bank manager Frances King and/or custodian of records; Broker who sold Mary's long time home, former attorney Florence Samson; Trustee Everett Green, forensic examiner or accountant
  - c. Defenses: May contest amount but expert testimony will address all losses.

## **WRAP-UP AND EVALUATIONS**

### **Time Allotted: 20 minutes**

#### **Slide #67: Taking Stock and Conclusion**

Taking Stock and Conclusion



- Revisit the Review Quiz (Activity 1)
- Refer to Participant Manual
- Think about what you have learned from the Core Curriculum and this Advanced course
- Write down what you believe are the 3 most important things you will take from this training and apply to your work.



#### **Provide answers to the Review Quiz (Handout #1)**

**Explain** that this course has taken you deep into the Criminal Justice System and how it deals with cases presented to it. The goal has not been to make you police and prosecutors but to help you to work more effectively in handling cases with clients who may be victims of crimes.

We have covered:

- Who does what—the roles of criminal justice professionals as compared to the roles of APS professionals
  - Important considerations for joint investigations
  - Effect of documentation on investigations and court proceedings
- Proving criminal older and vulnerable adult abuse cases
  - Case building framework
  - Anticipating and addressing defenses
  - Linking case evidence to legal elements
- The APS witness in court

**Ask** participants to think of Core and this Advanced Course and write down in their manuals the 3 most important things they will take away.

**Ask** for a volunteer from each table to share at least one.

**REVIEW QUIZ (with answers)****HANDOUT #1b**

1. Select the four components of the Criminal Justice System that APS works most often with:
  - a. **Prosecution**
  - c. **Corrections**
  - d. Judge
  - e. **Victim Witness Assistance Program**
  - f. Defense Attorneys
  - g. **Law Enforcement**
  - h. All of the above
2. What APS calls a “client”, the Criminal Justice System calls a **victim**.
3. What APS calls an A/P, A/A, or suspected abuser, the Criminal justice System calls a **suspect/defendant**.
4. The person who represents someone accused of a crime with a duty of loyalty to that person is a **defense attorney**.
5. The standard of proof for APS to confirm or sustain an allegation is
  - a. Reasonable suspicion
  - b. **Preponderance of evidence**
  - c. Clear and convincing evidence
  - d. Beyond a reasonable doubt
6. Crimes are composed of building blocks called **elements**.
7. The burden of proof for a prosecutor to prove a case is
  - a. Reasonable suspicion
  - b. Preponderance of evidence
  - c. Clear and convincing evidence
  - d. **Beyond a reasonable doubt**
8. The three types of evidence to build a case are witnesses, confessions and admissions, and **physical evidence**.
9. The strongest way to build an older or vulnerable adult abuse case is:
  - a. Victim-based
  - b. Defendant/suspect-based
  - c. **Evidence-based**
10. Reasonable suspicion is:
  - a. Evidence sufficient to allow law enforcement to make an arrest
  - b. Sufficient evidence to place an offender on a state registry
  - c. Strong evidence of guilt
  - d. **Unverified information sufficient to initiate an investigation**

11. The Criminal Justice System is:

- a. Client focused
- b. Victim focused
- c. **Offender focused**
- d. Child focused

12. APS documentation:

- a. Should be sufficient to refresh the APS witness' memory for court
- b. Is a measure of the professionalism of the APS staff member
- c. May be admitted in a criminal court
- d. Should be provided to the prosecutor in a criminal case to permit the prosecutor to meet discovery requirements
- e. **All of the above**

13. APS investigators should focus on the **what** and **how** from the start of their investigation.

- a. **What**
- b. Motive
- c. **How**

14. How many elements of a crime must be proven to meet the beyond a reasonable doubt legal standard of proof?

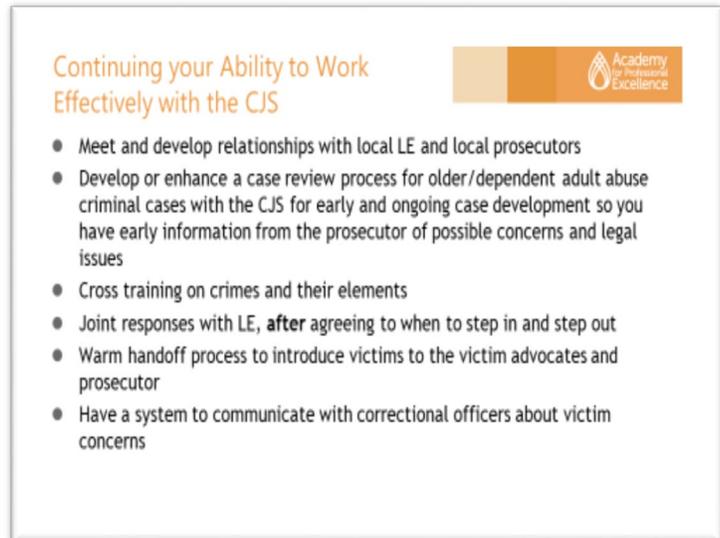
- a. Most
- b. More than Half
- c. **All**
- d. Half

15. In the following Crime Statute, CA Penal Code 273.5, select the first element that has to be proven:

*Any person who willfully inflicts corporal injury resulting in a traumatic condition upon.. [the offender's spouse or former spouse; cohabitant or former cohabitant; fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, or the mother or father of the offender's child...is guilty of a felony.*

- a. **Corporal injury**
- b. With intent to harm
- c. Spouse or former spouse
- d. Making unwanted physical injury

## Slide #68: Continuing Your Ability to Work Effectively with the CJS



Continuing your Ability to Work Effectively with the CJS

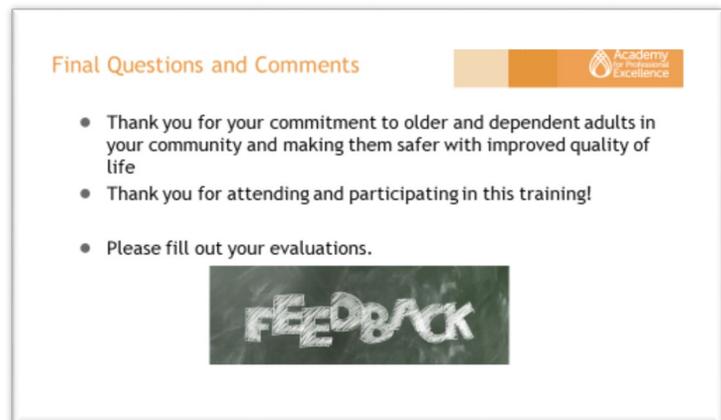
- Meet and develop relationships with local LE and local prosecutors
- Develop or enhance a case review process for older/dependent adult abuse criminal cases with the CJS for early and ongoing case development so you have early information from the prosecutor of possible concerns and legal issues
- Cross training on crimes and their elements
- Joint responses with LE, **after** agreeing to when to step in and step out
- Warm handoff process to introduce victims to the victim advocates and prosecutor
- Have a system to communicate with correctional officers about victim concerns

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**Ask:** “What will you do next to enhance your ability to work effectively with the CJS?”

**Take** a few responses and if not already mentioned go over the bullets on the slide.

- Meet and develop relationships with local LE
- Meet and develop contact with the local prosecutors who handle these cases
- Develop or enhance a case review process for elder abuse criminal cases with the CJS for early and ongoing case development so you have early information from the prosecutor of possible concerns and legal issues
- Cross training on crimes and their elements
- Joint responses to cases with LE but after agreeing when to “step in” and “step out”
- Warm handoff process to introduce victims to the victim advocates and prosecutor
- Have a system to communicate with correctional officers about victim concerns

**Slide #69: Final Questions and Comments**

The slide features a title 'Final Questions and Comments' in orange text at the top left. To the right is the 'Academy of Professional Excellence' logo, which consists of a stylized orange and white icon and the text 'Academy of Professional Excellence'. Below the title is a bulleted list with three items: 'Thank you for your commitment to older and dependent adults in your community and making them safer with improved quality of life', 'Thank you for attending and participating in this training!', and 'Please fill out your evaluations.'. At the bottom center of the slide is a dark rectangular image with the word 'FEEDBACK' written in a white, chalk-like font on a dark, textured background.

**Solicit** any final questions.

**Thank** everyone for their commitment to older and vulnerable adults in their community and making them safer with improved quality of life

**Thank** everyone for attending and participating in this training

**Ensure** participants complete evaluations.

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