



# MDT Cross-Training: Prosecutors and MDTs

AUGUST 9, 2018

DEPARTMENT OF JUSTICE  
**ElderJustice**  
INITIATIVE



**OVCTTAC**  
OFFICE FOR VICTIMS OF CRIME Training and Technical Assistance Center



# TECHNICAL OVERVIEW

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- ▶ If you are experiencing any technical issues with the audio for this session, please let us know in the feedback box.
- ▶ If you have technical difficulties during the webinar, contact Jason Adams, who is providing technical support for this webinar. His email address is [jadams@ovcttac.org](mailto:jadams@ovcttac.org).
- ▶ Today's session will be recorded and made available on the training website.
- ▶ If you have questions, type them in the feedback box. We will address as many as possible throughout the webinar.

# ELDER JUSTICE INITIATIVE

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The **mission** is to support and coordinate the Department of Justice's enforcement and programmatic efforts to combat elder abuse, neglect, and financial fraud and scams that target older adults.

The Initiative does so by—

- ▶ Promoting justice for older adults.
- ▶ Helping older victims and their families.
- ▶ Enhancing state and local efforts through training and resources.
- ▶ Supporting research to improve elder abuse policy and practice.

# ELDERJUSTICE.GOV

**You're fighting elder abuse on the front lines. We've got your back.**

The mission of the Elder Justice Initiative is to support and coordinate the Department's enforcement and programmatic efforts to combat elder abuse, neglect, and financial fraud and scams that target our Nation's seniors.



# ABOUT THE MDT TAC

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- ▶ A new project from the Elder Justice Initiative.
- ▶ Our mission is to provide tools, resources, and individualized consultations to facilitate the expansion of elder abuse case review multidisciplinary teams across the Nation.

# SERVICES

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- ▶ Responding to requests for materials (e.g., sample documents or research)
- ▶ Phone and email consultations to discuss problem solving and in-person consultations for communities needing a more hands-on approach
- ▶ Educational opportunities such as webinars
- ▶ **Newly launched MDT Guide and Toolkit**

# PRESENTER

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**Lisa Rachmuth, L.M.S.W.**

*Deputy Director, MDT*

New York City Elder Abuse Center  
Weill Cornell Medicine  
Division of Geriatrics and Palliative  
Medicine

# NYCEAC ANNOUNCES NEW PAPER

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## The Role of Prosecutors on MDTs



# PRESENTER

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## Nicole Sato

District Attorney  
San Mateo County  
District Attorney's Office  
California

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# Understanding the Role of the Prosecutor

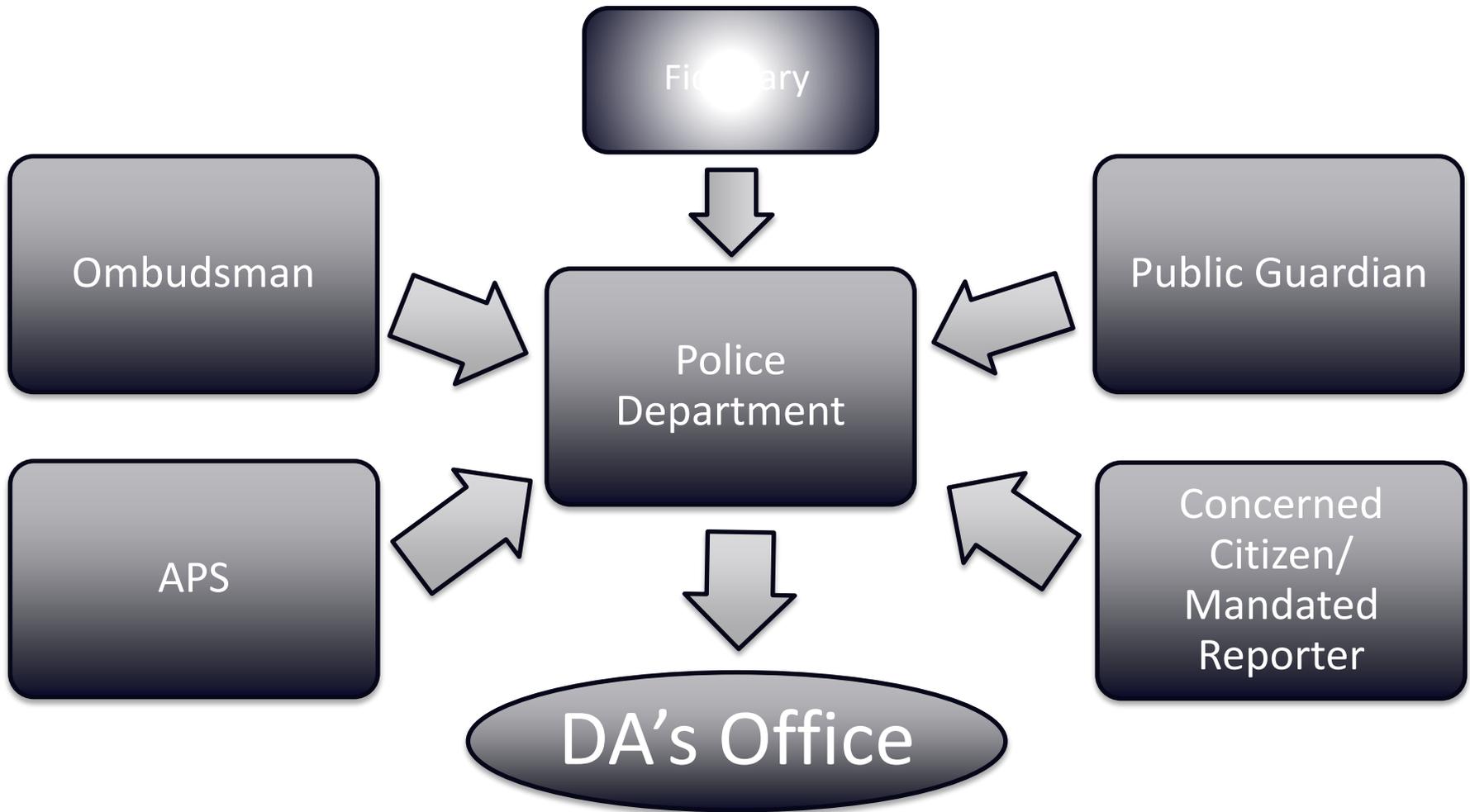


# COMMON MISCONCEPTIONS

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- The prosecutor is the victim's personal attorney.
- The prosecutor is responsible for investigating the entire case.
- If the case is not filed, it is because the prosecutor did not believe the victim.
- The prosecutor must obtain a certain percentage of convictions.

# HOW DO CRIMINAL CASES BEGIN?





# PHYSICAL EVIDENCE

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- Video surveillance
- Audio or video recorded interviews
- Photographs
- DNA or fingerprints
- 911 calls
- Data contained on computer
- Cell phone evidence
  - Cell tower data, text messages, etc.

# DOCUMENTARY EVIDENCE

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- Bank records
- Medical records
- Reports by paramedics or firefighters
- APS reports
- Real estate documents (deeds, loan paperwork)
- Deposition transcripts or other documents from civil cases

# **POLICE REPORT – *NOW WHAT?***

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File now.

Decline to file.

Send back to police  
for follow up.

# WILL THE DA'S OFFICE PROSECUTE?

1. Can I prove the charges beyond a reasonable doubt?
2. Will a jury convict?



# ETHICAL DUTY

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**If there is a reasonable explanation for the evidence that is consistent with lack of guilt, we cannot proceed.**

***We can only file cases that we believe we can prove beyond a reasonable doubt.***

# WILL WE FILE? ILLUSTRATIVE CASE #1

Suspect Myra is the eldest daughter of the 91-year-old victim. The victim's other daughter, Patty, went to the police department with her mother to make a police report. The victim reported that Myra transferred the deed to her residence into Myra's name without her permission. Myra also had power of attorney for her mother.

The victim, who had been living in a care facility, stated that Myra had her sign various documents. According to the victim, Myra told her that if she wanted to return home, she needed to sign the documents. The victim thought the documents she was signing were stating that Myra was going to take care of her.

Patty also provided a statement to the police. Patty discovered that the deed to her mother's home was now in Myra's name. She did not believe the victim willingly signed the documents and believed Myra had tricked her.

# WILL WE FILE? ILLUSTRATIVE CASE #1

Police interviewed the suspect, Myra. According to Myra, when her father died, Patty moved into her mother's home. Myra received a call from APS telling her that her mother had been neglected. Patty was evicted from the residence and, as a result, her mother ended up living in a care facility. Myra took her mother to see an attorney, who rewrote her mother's will and excluded Patty from the will. Myra claimed that her mother knew she was putting the house in Myra's name. Myra told police that she suspected Patty was manipulating her mother.

There were no issues with the victim's capacity to make financial decisions.

## **WILL WE FILE? ILLUSTRATIVE CASE #2**

Police responded to a report of a domestic dispute at a residence. A neighbor reported hearing a loud commotion coming from the home. Upon arrival, the officers contacted a 75-year-old woman, who said that her 40-year-old son pushed her against the wall and slapped her in the face two times, causing her to fall to the ground. She was visibly upset and told the officers that she is afraid of him.

Police spoke with the woman's son, who denied making physical contact with her. He claimed that his mother was upset over a verbal argument they had because she did not approve of his new girlfriend or his spending.

The elderly woman had no injuries. No one else saw what happened.

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# The Prosecutor and the Multidisciplinary Team

# COLLABORATION WITH OTHER DISCIPLINES

Contributions by the Prosecutor	Benefits for the Prosecutor
Can obtain a criminal No Contact Order for the victim.	Can learn of potential cases before they are reported to law enforcement.
Can obtain restitution for the victim as part of the criminal case.	Can gain more insight about a victim or the victim's family dynamic.
Can help facilitate dialogue with law enforcement.	Other disciplines may have already achieved a victim's trust.
Can encourage all disciplines to work toward a collective goal.	May obtain evidence or information needed for criminal prosecution faster.

# EDAPT SUCCESS STORY

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The victim was 80 years old, autistic, and diagnosed with stage 3 lymphoma cancer. He was admitted to the hospital when a nurse checked in on him at his home and found him weak and lying in his own feces and urine. The victim lived alone with no family or friends.

The defendant worked for a board and care placement agency and was introduced to the victim in order to help place him at a board and care facility. Within 2 days of meeting the victim at the hospital for the first time, the defendant had the victim sign the deed to his home over to a limited liability company (LLC) owned by the defendant. The defendant also had the victim sign a durable power of attorney for control over all of his finances at the victim's banking institution. The victim thought he was signing paperwork to consolidate his assets. The defendant recorded the deed and power of attorney at the county recorder's office the next day.

# EDAPT SUCCESS STORY

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Although the defendant claimed to have left a \$150,000 check with the victim, the victim never received any money for his home. The victim also had a reverse mortgage on his home that was never paid off.

During an interview with police and a representative from Aging and Adult Services, the defendant denied any affiliation with the LLC and denied living at the address associated with the LLC. The defendant was listed as the owner of the LLC with the Secretary of State.

The execution of a search warrant at the associated address revealed that the defendant was living at the address listed for the LLC. Officers seized a computer that showed the defendant was forging and manufacturing documents after his arrest.

# ISSUES ALONG THE WAY

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- The victim filed a civil lawsuit against the defendant to get his home back.
- While the criminal case was still pending, the victim signed a declaration under penalty of perjury attesting to several damaging facts set forth by the defendant.
- The notary public testified at a civil deposition that the victim appeared to understand he was signing over the deed to his home.

# EDAPT SUCCESS STORY: THE TRIAL

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- The victim passed away 2 years to the day that he signed the deed to his home.
- The jury trial lasted 3 weeks.
- Several witnesses testified: investigators, nurses, representatives from Aging and Adult Services, a neuropsychologist, the notary public, and an expert geriatrician.

# EDAPT SUCCESS STORY: OUTCOME

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After a little less than 1 day of deliberations, the jury found the defendant guilty of both felony counts:

1. Theft from an Elder
2. Filing of a False Document

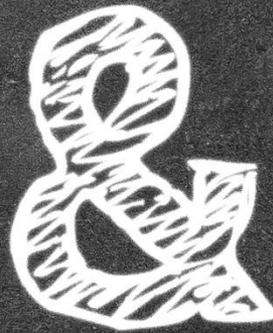
# SOME IMPORTANT LESSONS

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- Collaboration with different agencies and involved parties is critical to more efficient, effective investigation and prosecution.
- Remember: We all want our elderly population to be free from abuse. We are on the same team.
- Do not be discouraged from calling or contacting the prosecutor.

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Thank you for the work  
you do to protect and  
serve our elderly  
communities.



# CONTACT THE MDT TAC

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For consultation referrals or to collaborate, contact:

Talitha Guinn-Shaver

202–598–0292

[talitha.j.guinn-shaver@usdoj.gov](mailto:talitha.j.guinn-shaver@usdoj.gov)

# QUESTIONS & SUGGESTIONS

can be emailed to

**[elder.justice@usdoj.gov](mailto:elder.justice@usdoj.gov)**

