

THE

# Journal

OF CALIFORNIA LAW ENFORCEMENT

## TOPICS OF INTEREST

Assessing Police Discretion

Leadership During Times of Crisis

Prioritizing Asset Protection: The First Step  
Toward Improving Effectiveness in Responding  
to and Preventing Financial Elder Abuse

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# ASSESSING POLICE DISCRETION?

**By: Deputy Chief Jeffrey J. Noble, Irvine Police Department (retired)**

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The nature of police work demands that a significant level of discretionary decision making be placed in the hands of what are most often the least well-trained and the least seasoned officers in the organization. These officers, unlike professionals in other fields, typically work by themselves in a field environment where there is no reference manual that addresses the majority of the issues that confront an officer, and access to a supervisor is seldom immediately available (Kelling, 1999). Yet, police officers routinely make decisions with limited time constraints that have a tremendous impact on an individual's personal liberties including decisions to detain, arrest, and/or use force to gain compliance with their lawful orders.



Indeed, in policing sound discretionary decision making is based in economics and resources. If police officers were to take official action during every encounter and enforce each law without regard to the spirit that the law was intended to address, there would not be enough police officers, courts, jails, prisons or services to process the volume of individuals that would be placed through the criminal justice system. However the goal of discretionary decision making is not to prevent an overwhelmed criminal justice system, rather it is to allow officers the flexibility to temper narrowly defined laws with justice, fairness and common sense.

While discretionary decision making is an integral part of police work, it presents risks that may be costly in terms of litigation and public trust. Although most professions avoid risks by implementing detailed procedures, in policing it

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would be neither practical nor prudent to attempt to establish a policy or procedure to address every possible situation that an officer may face. There is simply no reasonable alternative other than to provide significant discretionary abilities to police officers to address field interactions (Goldstein, 1977). Police officers are, however, required to properly assess situations and to exercise judgment as to when and how they should use their power. The ability to make responsible choices based on policies, training and experience is the distinguishing feature that makes a police officer a professional.

Every day hundreds of thousands of police officers make decisions that affect innumerable citizens. For the most part, these decisions are made with care and are appropriate for the situation facing the officer. Unfortunately, some officers believe that if there is no specific rule specifying acceptable behavior for a particular situation, they cannot be questioned on their decision-making process or behavior. However, this belief is simply not true. The notion of discretion is to empower others to make decisions based on their education, training, experience and within the guidelines of law and policy—not that decisions cannot be reviewed by others. Discretionary decision-making is indeed subject to review, and abuses of discretion may have both disciplinary and legal consequences.

### **Mistakes vs. Abuses of Power**

When assessing discretionary decision-making, there is a significant difference between mistakes and abuse of power. Mistakes result from unintentional misunderstandings or a lack of training and lead to inappropriate, unwise, or unfortunate decisions. Although such decisions are improper, they can be remedied by taking action to reverse the consequences of the decision as much as possible and by providing training or counseling to the officer to enhance the likelihood of more reasonable conclusions in the future. Moreover, a thoughtful apology after a mistaken action shows that the officer understands the impact of their error, a willingness to accept responsibility, and demonstrates decency and the courage to admit to their errors of judgment (Gennanco, 2005).

The key to determining if an officer mistakenly applied discretion is whether an officer acted in good faith and relied on reasonable criteria. For example, consider an officer's use of discretion when choosing to issue a warning to a speeding motorist in lieu of issuing a citation. If the officer exercised this discretion based on the driver's acknowledgement that he or she was speeding, and a promise to obey posted limits in the future, the decision by the officer may be an appropriate use of discretionary powers. The officer based his or her decision on reasonable criteria—that the motorist was apologetic, acted remorseful, and the officer believed that a warning would be an effective future deterrent.

But consider the same motorist who, although acting apologetic and remorseful, was driving at a high rate of speed in a school zone where many young children were present and the officer was also aware that the driver had received several recent citations for similar infractions involving speed and school zones. In this case, although the officer used reasonable criteria (that the motorist was apologetic and remorseful), the belief that a warning would be an effective deterrent was unwarranted because the driver persisted in dangerous behavior despite previous warnings. This type of discretion error can be remedied with training or counseling that emphasizes the relative importance of various factors in the decision making process. The officer in the above example made a good faith error in judgment and it is reasonable that training or counseling will aid the officer to make better decisions in similar circumstances in the future.

However, an officer's intentional abuse of discretion is entirely different. For example, a detention based inappropriately on the race of the driver or an arrest made for political reasons are abuses of an officer's authority. Reasonable police officers know that race and political gain are both improper criteria for a legitimate decision making process and therefore decisions based upon these factors result in abuses of individual's liberties and cannot be condoned.

### **Discretionary Decision-Making Criteria**

While discretionary decision making is appropriate when based on proper criteria, evidence that the officer abused their authority may be shown when the officer bases their decision making on improper criteria (Josephson, n.d.). When assessing discretionary decision making, the reviewer must examine the underlying criteria used by the officer in their decision making process.

#### **Proper Criteria**

- Officer believes that a warning will be an effective deterrent.
- The offender is apologetic or remorseful.
- Seriousness of the conduct.
- Youth, advanced age, intelligence, physical or mental health status.
- Use of weapons, violence, or threat of violence.
- Repeat offender.
- Demeanor.
- Community complaints.
- Attitude of parent/guardian.
- Environmental factors (what else is occurring in the area).
- Degree of culpability.
- Mitigating/aggravating circumstances.
- High probability that the conduct will continue if affirmative action is not taken.



## Improper Criteria

- Race, ethnicity, gender, religion, or national origin.
- Appearance (enforcing laws broken by unkempt individuals while ignoring similar behavior by attractive offenders).
- Socio-economic factors (wealth, type of vehicle, neighborhood).
- Type of vehicle.
- Political reasons.
- Officer laziness (to avoid work, visibility, overtime, or court).
- Ends-justify-the-means thinking (noble cause corruption).
- Employment of offender (police officer, firefighter, judge, city council member).
- Personal feelings.

The use of appropriate criteria and the avoidance of improper criteria are critical components of an officer's discretionary decision making model. This foundation may not prevent good faith mistakes, but good faith efforts to make decisions on reasonable criteria will earn the trust of the community, while abuses of power through decision making based on improper criteria will certainly diminish the community's trust and should subject the officer to administrative action.

## Ends-Justifies-The-Means

In 2004, the Baltimore Police Department engaged in a practice that illustrates the hazards of police discretion when the decision-making process is based on improper criteria. The practice, which was unofficially condoned by department leaders, encouraged officers to negotiate the release of individuals arrested for drug crimes or petty offenses if the arrestee could recover and turn in a gun to the officer (Davis, 2004). When questioned about arrestees trading guns for freedom, a department commander stated that the program's goals were a worthwhile and beneficial effort to take crime guns off the streets.

Taking guns off the streets in an attempt to reduce violent crime is certainly a worthwhile goal. But the tactics employed by the Baltimore Police Department effectively subverted the justice system by not filing criminal complaints on arrestees in cases where the arrestee was able to buy his or her freedom by producing a handgun and delivering it to the police. This type of ends-justifies-the-means decision making is more than merely problematic; it undermines the ability of the community to feel that they are being treated fairly.

Another example of the slippery slope of the ends-justifies-the-means discretionary decision-making process is the use of criminal profiling where race, or other improper criteria, is a factor. The goal of identifying criminals is beneficial,

but the reliance on improper criteria destroys community trust and what may otherwise be a promising effort to reduce crime.

## **Conclusion**

The importance of discretionary decision making by police officers cannot be overstated. The vast majority of police officers understand their responsibilities to use their power appropriately and perform their duties in a professional and caring manner. While an organization can and should counsel and train officers who make good faith efforts that result in poor decisions, management must take meaningful steps to address officers who intentionally abuse their discretion by relying on improper criteria or those who act outside the bounds of the authority to prevent an erosion of public trust and violations of individual's civil liberties.

## **References**

- Davis, R. (2004, October 25). An arresting offer: Guns for freedom. *Baltimore Sun*, p. 1A.
- Gennaco, Michael (2005, October) Office of Independent Review. Los Angeles Sheriff's Department. City of Commerce, California. [www.laoir.com/reports/OIRFall05.pdf](http://www.laoir.com/reports/OIRFall05.pdf)
- Goldstein, Herman. (1977). Categorizing and Structuring Discretion. Chapter 5 (pps. 93-130) in *Policing a Free Society*. Cambridge, MA: Ballinger Publishing Company.
- Kelling, George L. (October, 1999). "Broken Windows" and Police Discretion. National Institute of Justice: Research Report (NIJ 178259).
- Michael Josephson commentary on ethics and character. (n.d.) Retrieved April 18, 2007, from <http://www.charactercounts.org/knxtoc.htm>

# LEADERSHIP DURING TIMES OF CRISIS

By: Lieutenant Evan Sailor, Newport Beach Police Department

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## Introduction

In law enforcement, we experience internally and externally generated crises on a regular basis. Whether it involves one of your employees facing serious discipline for an act they committed or a critical incident involving an armed adversary, your ability to lead during these difficult times is going to be tested. In order to ensure a positive outcome while leading in harm's way, one should have earned the respect and trust of their personnel prior to these events ever occurring.

## Background

There are numerous texts, articles, theories and opinions on leadership development. Many of us attend graduate classes, leadership workshops and training conferences in order to better prepare ourselves and enhance our skills. Leaders should never forget the importance of analyzing and learning from failure as well. Failure oftentimes can and has led to creative and innovative leadership techniques. Let's look at this topic from a practitioner's perspective rather than a researcher or theorist. How can we ensure our personnel will react appropriately and respond positively to our decisions during a crisis?

Prior to a critical incident or crisis occurring, you should have laid the foundation to support your crisis leadership. This foundation anchored properly will help strengthen the bonds you have with your personnel. Successful leaders have applied the following seven basic categories in order to maximize their ability to lead and resolve a crisis. These categories are interconnected and woven together like the fibers of your ballistic vest.

## Trust

This is the basic building block that allows you to build upon it and frame your leadership and supervisory style. Just like the foundation of a home, it will determine whether your home can survive a crisis. Once your personnel trust

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you, you can work towards accomplishing the six categories that follow in random order. If you do not have their trust, you will never succeed. This does not mean you have to be their best friend, but you should have demonstrated your sincerity through your actions and behaviors. Empty rhetoric or recreating a history that never occurred will only help to alienate and develop a high level of distrust with your personnel.

I prefer Stephen Covey's model of character and competency. Covey (2006) stated, "Trust is a function of two things: character and competence. Character includes your integrity, your motive, and your intent with people. Competence includes your capabilities, your skills, your results, and your track record." (p. 30). Will you pass judgment related to your person and your ability to get work done?

## **Inspiration**

Along with trust, a leader should inspire others to want to better themselves. Your employee(s) should want to become a better person, officer, teammate, spouse, parent, etc. Leading by example may be done by taking on a challenge that will inspire your personnel. It could be something as simple as a change in policy or a new innovative tactic or technique. It is your responsibility to give them hope and faith in the work place. They need to believe in you in order for them to follow you. There are times that you will need to deliver one of those big game time speeches like a college football coach.

For me, I think of great men like Delta Force Sergeant Major John Anderson and Delta Force Command Sergeant Major Melvin Wick. In John Giduck's book, *The Green Beret in You*, he (2007) writes, "Contrary to popular belief, Green Berets are made and not born. Yes, it is necessary to start with an individual with a solid foundation of self-discipline, commitment, honesty, decent athletic ability and an above-average intellect. But these qualities can be found in many, who ultimately might not make the grade in Special Forces training." (p. 29). In our line of work we must inspire our personnel to be the best that they can be.

## **Motivation**

Once you have earned their trust, you will need to motivate your personnel to learn and grow. Think of someone who has motivated you in your life. How did they do it? Why did it have such a big impact on you? For me, President Ronald Reagan inspired and motivated me during the 1980's to be a more patriotic American. I was never prouder of my country and what we stood for. There are a myriad of ways to motivate people, as well as how it correlates to their performance.

General and President Andrew Jackson was described as a fierce leader during times of crisis. Jackson claimed, “I was born for a storm and a calm does not suit me.” (Meachem, 2008). When you as a leader make the same sacrifices as you ask your personnel to do, it builds trust and credibility. General Jackson was known to truly care about his soldiers. During the war of 1812, General Jackson promised to bring all of his soldiers back home after being ordered to disband. He gave up his own horses to transport the sick and wounded. Meachem (2008) wrote, “Jackson proved his love in times of crisis, earning capital with his troops that both gave him a nickname and formed a bond of affection and respect between himself and his followers that lasted for the rest of his life.” (p. 28). Motivated personnel will perform beyond your expectations.

## **Risk & Failure**

The foundation of trust will allow your personnel to take risks and learn from their mistakes and failures. This should be done in a safe environment due to the extreme difficulty of experimenting during times of crisis. If you have provided them with a positive work environment and encouragement, your leaders will step up to the task. In our line of work we experience many controlling supervisors who do not want to provide that freedom. They fear the failure of their personnel will negatively impact their own career aspirations.

My personal commitment is to lead, develop and mentor personnel assigned to me as if they were my own family. Why would I not want them to rise to a higher level than me? Why would I want them to make the same mistakes I made? President Lincoln was known for encouraging innovation within his administration. Phillips (1992) stated, “Lincoln’s obsessive quest for results tended to create a climate for risk taking and innovation. Inevitably there were failures, but Lincoln had great tolerance for failure because he knew that if his generals were not making mistakes they were not moving.” (p. 137-138). Risk management is an important component of leadership; however, don’t forget the value of letting your personnel take certain risks.

## **Healthy Conflict**

When leaders and their subordinates trust each other it allows them to engage in discourse. Healthy conflict has led to the creation of innovative solutions. When people engage in healthy conflict they tend to work collaboratively on finding a mutually agreed upon resolution. Leadership can be like interacting with your own family. It takes a lot of love, a lot of hard work, along with the proper amount of guidance and direction. Humans engage in conflict on a regular basis; however, very little effort is put into teaching people how to effectively deal with conflict. Your personnel will and should disagree

over issues. It is your job to ensure they resolve those differences in a healthy manner. Teams cannot flourish when there is unresolved conflict that can lead to resentment. Make sure you teach your personnel the difference between constructive and destructive behavior.

You as a leader will have a team of different personalities including submissive, assertive and aggressive types. This may require your facilitation in order to demonstrate how to engage in proper conflict for those trying to express their opinions and viewpoints. Bolton (1979) stated, "Beginners at assertion usually send more effective messages when they use the formula: When you (state the behavior nonjudgmentally), I feel (disclose your feelings) because (clarify the effect on your life)." (p. 142). By completing such a procedure, one can properly send their message to others.

## **Influence**

Now that your personnel trust and respect you, it is your job to positively influence them. There will be times during your career when you are transferred or directed to take over a unit in disarray or chaos. How will you be able to turn the unit around and lead them in the right direction? The other critical moment will come when management makes a decision or enacts a policy that will be in direct opposition with the troops. How will you influence your troops to do the right thing while supporting your organization? Your role is to influence them in order to achieve a common purpose.

It all starts with a vision and a path for achieving the associated objectives and goals related to that vision. Captain Michael Abrashoff took over as commander of the USS Benfold. Captain Abrashoff was able to create a confident and cutting edge crew who bought into his vision. It started with listening to his personnel and seeing things through their eyes. Captain Abrashoff (2002) stated, "The whole secret of leading a ship or managing a company is to articulate a common goal that inspires a diverse group of people to work hard together. That's what my sailors got: a purpose that transformed their lives and made Benfold a composite of an elite school, a lively church, a winning football team, and -best of all- the hottest go-to ship in the U. S. Navy." (p. 52). My current boss always reminds his staff that we as leaders cast a big shadow.

## **Accountability**

In order to build upon your foundation of trust, you must establish and maintain a high level of accountability in your own actions prior to enforcing those of your subordinates. Do not be a hypocrite and live a life of double standards. Remember, as a leader it is your job to sacrifice. When enforcing rules and regulations be firm and fair. The punishment should fit the crime, which would

include timeliness. If you vacillate and/or fail to maintain the same standards, you will lose credibility and be perceived as being weak.

Patrick Lencioni identified accountability as one of the building blocks of a successful team in his book, *The Five Dysfunctions of a Team*. Lencioni talks about the avoidance of accountability and how that leads to low standards. Leaders must follow up on assignments, objectives and expectations. Deviations, incomplete assignments and avoidance of work standards must be addressed swiftly and firmly. Without accountability, no one will believe in you or your philosophy. Lencioni (2002) stated, "Once we achieve clarity and buy-in, it is then that we have to hold each other accountable for what we sign up to do, for high standards of performance and behavior. And as simple as that sounds, most executives hate to do it, especially when it comes to a peer's behavior, because they want to avoid interpersonal discomfort." (p. 98). Lastly, it is vital to differentiate between good and bad intentions.

## **Conclusion**

Without the proper foundation, you will discover that it will be difficult to properly lead, manage and supervise during times of crisis. However, if you developed the foundation of trust and have properly built upon it, your leadership abilities and successes will soar to new heights. Your personnel will allow you to lead them from the front and set the example. Your credibility, respect and genuine compassion for those you lead will not only help you properly manage a crisis, it will help to prevent the internally generated ones!

Too many supervisors and/or managers put themselves in positions of authority but fail to act; fail to lead. They will recreate history to show themselves and their behaviors in a positive light. Do your personnel prefer rhetoric or actions and results? Too many can spin a wonderful tale without ever really accomplishing anything. We must be brave enough to challenge those who are not leading.

Remember, once you establish yourself as a true leader in your organization it takes even more work to maintain that status. For those who know me they have heard the mantra before. You are either progressing or regressing, there is no status quo. Which leader do you want to be?

## **References:**

Abrashoff, M. (2002). *It's Your Ship: Management Techniques from the Best Damn Ship in the Navy*. New York, NY: Business Plus.

Bolton, R. (1979). *People Skills*. New York, NY: Simon & Schuster.

Covey, S. M. R. (2006). *The Speed of Trust*. New York, NY: Free Press.

Giduck, J. & Anderson, J. (2007). *The Green Beret In You*. Bailey, CO: Archangel Group Publishing.

Lencioni, P. (2002). *The Five Dysfunctions of a Team*. San Francisco: Jossey-Bass

Meacham, J. (2008). *American Lion*. New York, NY: Random House.

Phillips, D. T. (1992). *Lincoln on Leadership*. New York, NY: Warner Books.



# PRIORITIZING ASSET PROTECTION: A FIRST STEP TOWARD IMPROVING EFFECTIVENESS IN RESPONDING TO AND PREVENTING FINANCIAL ELDER ABUSE FOR LAW ENFORCEMENT AGENCIES

By: Lieutenant Brandon J. Richey, Concord Police Department

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## The Silver Tsunami

When Baby Boomers started turning sixty-five years old in 2011, ten thousand people began to turn sixty-five every day. This domestic phenomenon, known as the Silver Tsunami, will continue for at least the next twenty years. By the year 2030, almost one out of every five Americans, approximately seventy-two million people, will be sixty-five years or older (The Alliance for Aging Research, 2006; Shrestha & Heisler, 2011; United States Census, 2000). This represents a much larger proportion than in the recent past; in 2000, the over-65 population comprised just over one out of every ten Americans (United States Census, 2000). By the year 2050, the sixty-five and older population is projected to be between eighty and ninety million, with those eighty-five years and older comprising close to twenty-one million Americans. Not only will there be many more senior Americans, but they'll be living longer as the individual life expectancy will continue to increase (The Alliance for Aging Research, 2006; Shrestha & Heisler, 2011). Already the most senior-populated state, these trends will be especially felt in California, where the population of elders (age sixty-five and older) is projected to reach 7.2 million by the year 2030, comprising approximately twenty-five percent of the state's entire population (United States Census, 2000).



Given the increasing population of elders in our society and the numerous contributing factors to abuse crimes, the unfortunate consequences are an increasing pool of potential victims and increasing opportunities for those who

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wish to prey upon them. Knowing the likelihood for criminal abuse, prevention and mitigation policies must be updated to remain effective.

### **Criminality Targeting Elders**

All elder abuse crimes are predatory in nature; achieved by deceit, threats and emotional manipulation (Heisler, 2000; MetLife Mature Market Institute, 2011). The victims are frequently helpless and presented with multiple hurdles to reporting, resolution and the infinitely difficult task of actually ever recovering (Buka & Sookhoo, 2006). Destitute, broken and betrayed, the victims frequently die long before resolution has been obtained (Heisler, 2000; Elder Financial Protection Network, 2010).

These abuse crimes reach beyond just the intuitively vile physical and sexual abuse categories. According to Dessin (2000), “Financial abuse (of the elderly) can be as devastating to the quality of life of an individual as physical abuse” (p. 205). A study conducted by the MetLife Mature Market Institute (2011) showed elder financial abuse cases accounted for losses of (an admittedly conservative sum) \$2.9 billion in 2009.

The increasing magnitude of elder financial abuse should not cause law enforcement agencies to surrender to the attendant criminality but rather recognize the opportunity to adapt their response perspectives to ultimately enhance the services they provide to elders. Moreover, agencies must recognize simple reactionary investigation and prosecution will not provide an effective, preventative component facilitating the asset protection elders need to defend against victimization. Adaptation of response policies for reports of financial abuse can be implemented easily, minimize (if not prevent) monetary losses, avoid inter-organizational constraints and come at a negligible cost.

### **Adapting Agency Responses to Reports of Suspicious Financial Transactions**

Under current California law (§15630.1 Welfare and Institutions Code) financial institutions, such as banks, credit unions and mortgage brokers, are required to report suspicious activity and transactions (involving an elder’s account or holdings) to the adult protective services agency (APS) in the county where the apparent victim resides, or to a law enforcement agency in the county where the incident occurred. This reporting is routinely accomplished by the financial institution’s employees completing the State of California, Department of Social Services form SOC 342. The completed SOC 342 is then sent to the local Adult Protective Services agency, usually via FAX or US mail.

Since many, if not most, APS agencies recognize they lack the staffing, expertise and resources to provide the investigative services for the suspicious financial

transactions, they in turn refer the matter to the law enforcement agency (with jurisdiction) for investigation. The unfortunate consequences of this process are the inherent delays and loss of a key opportunity to intervene on behalf of the victim and protect their assets. Enhanced police responses to initial reports of elder financial abuse are the critical component of preventing and addressing the offense (Buka & Sookhoo, 2006; Heisler, 2000; Price, King, Dillard & Bulot, 2011). According to Price et al. (2011), “Catching financial exploitation early presents an opportunity for intervention, protecting the financial assets of the victim and possibly preventing physical harm and loss of independence” (p. 356).

To meet the need for immediate asset protection, response protocols need to be changed by implementing an internal policy in conjunction with a training program for agency personnel and the financial institutions’ employees. The internal policy would involve directing Field Operations personnel to provide the initial response to in-progress reports of suspicious transactions from financial institutions. An investigative specialist, if existing in the police agency, could supplement the Field Operations’ response. Obviously, an integral part of this will be re-educating the mandatory-reporting financial institutions, which will need to be trained to report suspicious financial transactions as an in-progress crime. In turn, this facilitates a rapid investigative response, real-time asset protection and the attendant opportunity to intercede (investigate, identify involved parties, make arrests when appropriate, freeze accounts) at this critical intervention point (Price et al., 2011).

Officers need to be trained regarding the current legal aspects of their response to the report of a suspicious financial transaction, their ability to freeze accounts (pursuant to California Probate Code §2900/2905) and the expectations of their investigation at the scene (Davies, 2010). The current practices of most financial institutions and police agencies are contrasted with this suggested change to

<b>Organizations’ Actions</b>	<b>Current Practice</b>	<b>Suggested Practice/New Policy</b>
Suspicious Transaction Detected by Financial Institution	Transaction is usually completed, funds likely lost forever	Notification to PD/SO as an in-progress incident, transaction is investigated immediately & potentially halted altogether; loss prevented
Transaction reported by financial institution to law enforcement	Reported to APS via SOC 342, no immediate response or asset protection measures	Reported to PD/SO via call to dispatch - Patrol officer responds, proceeds with initial investigation & detentions, where appropriate – asset protection enhanced
Detailed investigation of transaction	None by APS or financial institution	Officer and/or detective initiate investigation immediately at the scene
APS receives report from financial institution	APS sends PD/SO a copy of the SOC 342 reporting the transaction – no timely intervention possible	This delay is eliminated.
Funds frozen pending investigation	Not possible - exigency and funds already lost	High potential for success – the peace officer/detective at the scene prioritizes protection of the victim & assets
Investigation of abuse reaches timely conclusions, point of contact for victims & families provided	Unlikely to meet all these goals, if any	Goals are met based on the new policy, which provides a coordinated patrol officer/investigations process.
Assets legally protected	Unlikely	Highest possible potential

response protocols in the chart (below).

Once this policy is enacted, a new structure for a more efficient and effective response to suspicious financial transactions will exist, which achieves the key goal of financial abuse prevention; asset protection. Since law enforcement reporting mandates have already been met via the initial report to the PD/SO, the required forms can also be submitted directly to PD/SO during the investigator's initial contact at the financial institution, thus complying with legal mandates. In the end, the theft can potentially be averted entirely.

The totality of this policy option provides high impact and low cost in a rapidly implemented package. Since it makes work flow more efficient, delivers a better police product and relieves other organizations of inefficient burdens, it is unlikely to receive any objections from intrinsic or extraneous stakeholders. This policy option makes substantial strides towards timely interdiction into elder financial abuse crimes, enhances prevention measures, improves investigations and serves as a critical first step in enhancing an agency's response to elder financial abuse.

## References

- Buka, P. & Sookhoo, D. (2006). Current Legal Responses to Elder Abuse. *The International Journal of Older People Nursing*, 194-200.
- California Bar Association (2009). *Seniors and the Law: A Guide for Maturing Americans*. San Francisco, CA.
- California Welfare & Institutions Code, (2012). §15630.1, Mandated Reporting of Suspected Financial Abuse. Eagan, MN: Thomson West.
- Davies, M. (2010). *Law Enforcement Officers' Understanding and Response to Elder Abuse*. (Unpublished masters thesis). California State University, Long Beach, Long Beach, CA.
- Dessin, C. (2000). Financial Abuse of the Elderly. *Idaho Law Review*, 36, 203-226.
- Elder Financial Protection Network. (2011). *Confronting Elder Financial Abuse*. San Francisco, CA.
- Heisler, C. (2000). Elder Abuse and the Criminal Justice System: New Awareness, New Responses. *Generations*, 24(2), 52-58.
- MetLife Mature Market Institute. (2011). *The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America's Elders*. Westport, CT.

- National Center on Elder Abuse (1997). *Domestic Elder Abuse Information Series*. Washington D.C.: Tata, T., Kuzmeskus, M. & Duckhorn, E.
- National Center on Elder Abuse (2003). *A Response to the Abuse of Vulnerable Adults: The 2000 Survey of State Adult Protective Services*. Washington D.C.
- National Center on Elder Abuse (2005). *Fact Sheet: Elder Abuse Prevalence and Incidence*. Washington D.C.
- National Committee for the Prevention of Elder Abuse. (2003). *Multidisciplinary Elder Abuse Prevention Teams: A New Generation*. Washington D.C.: Nerenberg, L.
- National Institute of Justice (2007). *Elder Abuse*. Retrieved from <http://www.nij.gov/topics/crime/elder-abuse/welcome.htm>.
- Price, T., King, P., Dillard, R. & Bulot, J. (2011). Elder Financial Exploitation: Implications for Future Policy and Research in Elder Mistreatment. *Western Journal of Emergency Medicine*, 12(3), 354-356.
- Shrestha, L. & Heisler, E. (2011). *The Changing Demographic Profile of the United States*. Washington D.C.: Congressional Research Service.
- Teaster, P. & Nerenberg, L. (2003a). *Elder Abuse Multidisciplinary Teams: Project Report*. Washington, D.C.: National Committee for the Prevention of Elder Abuse for the National Center on Elder Abuse.
- Teaster, P. & Nerenberg, L. (2003b). A National Look at Elder Abuse Multidisciplinary Teams. *Journal of Elder Abuse and Neglect*, 15(3-4), 91-107.
- U.S. Census Bureau (2000). The United States Census 2000. Retrieved from <http://www.census.gov/main/www/cen2000.html>.
- U.S. Census Bureau (2010). The United States Census 2010. Retrieved from <http://2010.census.gov/2010census/>.

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