

OVS/VOCA Elder Abuse Interventions and Enhanced Multidisciplinary Team (E-MDT) Initiative

E-MDT Policies Manual

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Purpose of the E-MDT Policies

The E-MDT Policies document outlines required policies guiding the development and work of all Enhanced Multidisciplinary Teams (E-MDTs) funded through the OVS/VOCA Elder Abuse Interventions and Enhanced Multidisciplinary Team Initiative (Initiative) in New York State. The E-MDT Policies document will be used to guide the initial and ongoing work of the E-MDTs. While adhering to these policies is required, each E-MDT is expected to develop procedures and ground rules to implement the policies in a manner that best serves the team. The policies contained in this document do not supersede the contract requirements of the Initiative. Technical Assistance is provided by Lifespan of Greater Rochester, Inc. and the New York City Elder Abuse Center at Weill Cornell Medicine to assist E-MDT Coordinators in implementing these policies.

Background

The E-MDT model, an adaptation of the MDT in the borough of Brooklyn in New York City, was piloted in New York State from 2012-2016. Funding was provided by a federal grant from the Administration for Community Living/Administration on Aging under the Prevention and Public Health Fund through the Affordable Care Act. The pilot was implemented in seven counties in the Finger Lakes region (Monroe, Ontario, Wayne, Livingston, Yates, Seneca, and Cayuga) and in the borough of Manhattan in New York City. During 2016-2017, New York State funded the program to sustain the original eight E-MDTs, expand the initiative to Western NY (Erie), Central NY (Onondaga), and the Southern Tier (Schuyler and Chemung), as well as enhance the Brooklyn MDT to become an E-MDT. A total of thirteen E-MDTs were sustained, enhanced, or newly established with state funds.

Due to the effectiveness of the E-MDT model to address elder abuse and the recognized need for the E-MDT intervention to be available statewide, in 2017 the NYS Office for Victim Services and New York State Office for the Aging partnered with each other and with Lifespan of Greater Rochester, Inc. and the New York City Elder Abuse Center at Weill Cornell Medicine to establish and implement the Initiative to support existing E-MDTs, expand E-MDTs statewide, and develop technical assistance and other supports for successful statewide implementation.

E-MDT Purpose

The primary purposes of E-MDTs are to investigate, intervene, and stop all forms of elder abuse - financial exploitation, physical abuse, psychological abuse, sexual abuse, and neglect by others. Complex cases of elder abuse will be reviewed, and multidisciplinary approaches will be used as appropriate to address issues identified.

E-MDTs will meet regularly on a pre-determined schedule. Meetings will include the presentation and discussion of new complex cases and/or review and follow-up of cases discussed at previous meetings. E-MDTs will develop and coordinate action plans as appropriate. Meetings may include training and discussion of procedural and team development matters.

E-MDT Coordinator Roles and Functions

The E-MDT Coordinator is the designated leader of the E-MDT, responsible for administrative and clinical operations of the teams in their designated counties. The core roles and functions of the Coordinator are varied and complex, and include but are not limited to:

- Comply with all relevant contract requirements, including those related to record keeping, data collection, and reporting;
- Develop and launch E-MDTs;
- Engage key stakeholders for E-MDTs;
- Engage Core and Liaison Members for E-MDTs;
- Undertake and enforce mandatory confidentiality agreements for all E-MDT members and guests;
- Coordinate and facilitate E-MDT meetings;
- Facilitate the establishment and implementation of E-MDT procedures and ground rules;
- Facilitate education and training for the E-MDT members on this Initiative;
- Provide clinical case consultations with professionals and/or link professionals with Specialty Services;
- Ensure the E-MDT utilizes a standardized procedure for case eligibility using the policies described in the [Types of Cases](#) section;
- Find, identify, and vet case referrals and new complex cases of elder abuse for presentation at E-MDT meetings;
- Triage cases for E-MDT meetings;
- Organize and prepare case information for presentation at E-MDT meetings, or assist and prepare others, as needed, tasked with organizing or presenting the case information;
- Research and fact find cases, which may include tracking the history of a case via law enforcement and other governmental and non-profit agency queries, a public records search, and financial and medical records review;
- Coordinate the team's assessment of risk for each new case presented;
- Coordinate action plans, case follow ups, and responses to case issues emerging between meeting dates in a timely manner;
- Facilitate team discussion and consensus about whether or not an E-MDT case should be closed at the team;
- Network and develop linkages with key agencies/organizations; and
- Keep accurate records for E-MDT meetings and case consultations.

The Coordinator's roles and functions may be performed by one or more designated professional(s) from within his/her organization, depending on the organizational structure and local needs.

Types of Cases:

Clinical Case Consultations, E-MDT Cases, Rapid Response Cases

The E-MDT Coordinator will review every case referred and determine if the case can be resolved as a clinical case consultation or if the case requires presentation to the E-MDT. Cases will be referred by professionals at government, law enforcement, healthcare, finance, nonprofit, and other entities. Some organizations supported by this Initiative are structured to also accept referrals from the general public. To be eligible for a clinical case consultation or presentation to an E-MDT, a case must involve a county resident who is at least 60 years of age

and who is the victim of a crime . Over the course of a clinical case consultation and/or an E-MDT case, a need may arise for a rapid response.

- **Clinical Case Consultation:** A clinical case consultation is a written or oral communication that the E-MDT Coordinator provides to the referring professional containing information and recommendations guiding elder abuse detection, prevention, assessment, and response related to a victim the professional is assisting.

Clinical case consultations may range from a single contact with the referral source to extended involvement. These consults typically include one or more suggestions, e.g., recommendations for supportive services and investigation strategies to stop exploitation/abuse; case document and record review; and facilitating connections with other professionals, including Specialty Services providers. Over the course of involvement, a clinical case consultation may develop into an E-MDT case.

- **E-MDT Cases:** Elder abuse cases are complex and require a coordinated multidisciplinary approach. A number of case factors, and the unique configuration of those factors in a given case, are taken into account when determining eligibility for E-MDT review. These may include, but are not limited to: suspicion a crime has occurred, frequency and severity of abuse, imminent danger, co-occurring types of abuse, multiple abusers, multiple victims of one abuser, multiple systems, complex family dynamics, victim reluctance, high risk of re-victimization, capacity nuances, needs access to a system(s) or service(s) (e.g., forensic accountant, geriatric psychiatry, community legal services, etc.), ethical obstacles, legal obstacles, difficulty determining a safety plan, medical and mobility complexity, multiple referrals, mental illness and addictions afflicting victim and/or alleged abuser.
- **Rapid Responses for Clinical Case Consultations and E-MDT Cases:** In an emergency, the E-MDT Coordinator and involved professionals take appropriate, immediate steps. This may include referring to emergency services (911, mobile crisis or other psychiatric response, APS), connecting with other professionals for rapid intervention (e.g., law enforcement, domestic violence services, respite, shelter, financial services, medical, hospital), or coordinating an emergency E-MDT meeting.

For additional information on referrals and case flow, see [Attachment 3](#) and [Attachment 4](#).

E-MDT Meeting Ground Rules

Ground rules will be established and adhered to by E-MDT members with guidance from the Coordinator. Having ground rules in place will allow E-MDT members, guests, and presenters to feel comfortable in the context of the E-MDT because they know what to expect from the team. For sample ground rules, see [Attachment 5](#).

E-MDT Membership

The E-MDT comprises core member organizations (Core Members) and possibly liaison member organizations (Liaison Members). The Core and Liaison E-MDT members should represent a key system or setting, and each representative should offer a key skill set or have subject matter expertise applicable to the mission of the team but is not unnecessarily duplicative of the expertise of other team members.

Core Members

Core Members assign a representative(s) to attend each E-MDT meeting. The representatives are experts with unique knowledge and skills applied to the serious problems at hand. Core Member representatives agree to the following items:

- Provide a designated representative from their office or department to actively participate in regular E-MDT meetings or arrange for an alternate when the designated representative is unavailable;
- Provide information about the E-MDT to their agency staff members to increase awareness and referrals;
- Make referrals to the E-MDT;
- Accept referrals and action plan items from the E-MDT;
- Share information within the confines of the Confidentiality Agreement, as appropriate;
- Collaborate with partners through the work of the E-MDT to detect, investigate, intervene, and prevent further abuse;
- Respond with direct intervention, when appropriate.

At a minimum, the E-MDT Coordinator will seek to establish as Core Members the following organizations:

- Adult Protective Services;
- Area Agencies on Aging;
- Criminal Justice entities (e.g. law enforcement, District Attorney's Office);
- Banking and /or financial services; and
- Specialty providers, including Community Legal Services.

Liaison Members

E-MDT Liaison Members are organizations that do not send representatives to attend each meeting but are available to attend for cases that directly involve them. Liaison Member representatives agree to the same items as Core Member representatives.

Additional Core or Liaison Members

In addition to these Core and Liaison Members, teams may include other members responsive to the needs of their particular county. Factors such as county size, access to services, unique needs and interests specific to the cultures, languages, socioeconomic status, and crimes (e.g., opioid use) in the county, plus rural, suburban and urban characteristics, will inform the choice of team membership. Additional team members may be proposed by the E-MDT Coordinator or by Core Members when a need for specific expertise is identified.

Examples of possible additional Core or Liaison members to consider may include:

- Attorney General's Office;
- Community-based elder abuse prevention/response program;
- Community guardianship program;
- Department of Social Services;
- Department of Taxation and Finance.
- Domestic violence/intimate partner violence service provider;
- Elder abuse shelter;
- Elder law attorney;

- Financial advisor;
- Health care provider (e.g., geriatrician, geriatric nurse practitioner);
- Internal Revenue Service agent;
- Ombudsman;
- Veterans Administration;
- Victim service advocate;
- Welfare fraud investigator.

Conflicts of Interest

All E-MDT members and guests shall avoid conflicts of interest so that the E-MDT may function and be represented at the highest ethical standard. The E-MDT Coordinator will advise the team members to notify him/her of any potential conflicts of interest as soon as possible. The Coordinator, together with the team members, will develop a procedure to address conflicts of interest.

Ineligibility to Serve on an E-MDT

A person will be deemed ineligible to serve on an E-MDT if the person has a pending case for any crime or offense related to elder abuse, domestic violence/intimate partner violence, or child abuse; if the person has been the defendant or respondent in the past for any crime or offense related to elder abuse, domestic violence/intimate partner violence, or child abuse in which the case was not resolved with a dismissal; or if a full or limited order of protection has been issued against him or her from any court and is currently in place. The Coordinator, together with the team members, will develop a procedure to address ineligibility to serve on an E-MDT.

For additional information on member roles, see [Attachment 2](#).

Guests

Guests typically fall into three categories: Case Presenters, Observers, or Consultants. Guests are invited with prior approval of the E-MDT Coordinator. Guests should only be present for the portion(s) of the E-MDT meeting that pertain to them unless it is appropriate for a guest to attend an entire meeting. For example, an entity that is considering joining the E-MDT, a student, a governmental representative, etc. may observe an entire meeting if appropriate, whereas a case presenter should only attend for their presentation and to answer any follow-up questions.

Guests will be subject to the ground rules established by the E-MDT and will sign a Confidentiality Agreement in order to attend. Victims, victims' family members, and professionals hired by the victim and/or victim's family should not be invited to attend E-MDT meetings.

Specialty Services

The E-MDT Initiative provides teams with access to three types of specialty services: forensic accountants, geriatric psychiatrists (or other qualified mental health professionals), and community legal services. Specialty service providers are Core Members who participate in discussions and case presentations at meetings and accept action items from the team. When specialty providers cannot attend a meeting in person, the Coordinator may arrange for them to attend via other means (e.g., video or teleconferencing).

Additionally, the specialty service providers may be accessed for case consultations as part of the Initiative, even if the case is not presented to the full team.

- **Forensic Accountant:** Based on interaction with the E-MDT Coordinator for complex cases that are identified to require a case consult and/or in-depth financial information-gathering, the forensic accountant conducts in-depth reviews of bank, credit card, and investment statements, analyzing transactions to determine the exploitation of victim assets. The forensic accountant prepares a report of findings and provides recommendations to the E-MDT, and testifies in court, if needed. (see [Reference Document 1: The Forensic Accounting Role](#))
- **Geriatric Psychiatrist (or other qualified mental health professional):** The role of the geriatric psychiatrist (or other qualified mental health professional) varies, depending on the needs of the case and can include: reviewing psychiatric evaluations conducted; consulting on developing a meaningful response based on the mental health and cognitive status of client; making suggestions for referrals for treatment and services; assisting with follow-up concerning such referrals; providing direct assessments, when needed; and testifying in court, if needed (e.g., guardianship proceeding). (see [Reference Document 2: Role and Responsibilities of Geriatric Psychiatrists or Geropsychiatrists](#))
- **Community Legal Services:** Community legal services representatives strengthen E-MDTs with expertise in civil legal matters. For example, they provide expert input and recommendations on cases reviewed; act as liaison between the E-MDT and the legal system; research and/or provide legal history related to cases reviewed, as needed; provide pertinent information regarding laws related to financial exploitation and/or elder abuse; and provide legal services to the older adult victim, as appropriate. (see [Reference Document 3: The Role of Civil Attorneys on Elder Abuse Multidisciplinary Teams](#))

Evaluating Team Performance

E-MDT Coordinators will conduct an annual evaluation of team performance using a prescribed quality measurement tool. This evaluation will, at a minimum, be used for team development and improvement.

Additionally, E-MDT Coordinators will, on a consistent basis and if possible after every team meeting, solicit feedback from the team members on meeting productivity. This feedback will, at a minimum, be used to improve E-MDT meetings.

Confidentiality

E-MDT Core and Liaison member representatives and all guests shall sign a Confidentiality Agreement on an annual basis. If a representative is on more than one E-MDT, that representative shall sign a confidentiality agreement for each team. The E-MDT Coordinator will undertake and enforce mandatory confidentiality agreements for all E-MDT members and guests. Scanned versions are acceptable. For a sample Confidentiality Agreement, see [Attachment 6](#).

Subpoenas

In the event of a subpoena, the E-MDT Coordinator and E-MDT members should follow the protocols of their individual organizations.

Attachment 1: Glossary of Terms

Abuse: There are many types and definitions of abuse. The chart below provides some examples; it is not intended to be an exhaustive list. Please note that, for the purposes of this Initiative, cases of purely self-neglect are not eligible for E-MDT review; cases of self-neglect with co-occurring forms of elder abuse are eligible for E-MDT review.

Source	Type of Abuse	Definition
New York State Social Services Law Section 473(6) (Utilized by NYS Adult Protective Services)	Active Neglect	Willful failure by the caregiver to fulfill the care-taking function and responsibilities assumed by the caregiver, including but not limited to, abandonment, willful deprivation of food, water, heat, clean clothing and bedding, eyeglasses or dentures, or health-related services.
	Emotional Abuse	Willful infliction of mental or emotional anguish by threat, humiliation, intimidation or other abusive conduct, including but not limited to, frightening or intimidating an adult.
	Financial Exploitation	Improper use of an older adult's funds, property or resources by another individual, including but not limited to, fraud, false pretense, embezzlement, conspiracy, forgery, falsifying records, coerced property transfers or denial of access to assets.
	Passive Neglect	The non-willful failure of a caregiver to fulfill care-taking functions and responsibilities assumed by the caregiver, including but not limited to, abandonment or denial of food or health-related services because of inadequate caregiver knowledge, infirmity or disputing the value of prescribed services.
	Physical Abuse	The non-accidental use of force that results in bodily injury, pain or impairment, including but not limited to, being slapped, burned, cut, bruised or improperly restrained.
	Self-Neglect	An adult's inability, due to physical and/or mental impairments to perform tasks essential to caring for oneself, including but not limited to, providing essential food, clothing, shelter and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety; or managing financial affairs.
	Sexual Abuse	Non-consensual contact of any kind, including but not limited to, forcing sexual contact or forcing sex with a third party.
Administration for Community Living	Physical Abuse	Inflicting physical pain or injury on a senior, e.g. slapping, bruising, or restraining by physical or chemical means.
	Sexual Abuse	Non-consensual sexual contact of any kind.

	Neglect	The failure by those responsible to provide food, shelter, health care, or protection for a vulnerable elder.
	Exploitation	The illegal taking, misuse, or concealment of funds, property, or assets of a senior for someone else's benefit.
	Emotional Abuse	Inflicting mental pain, anguish, or distress on an elder person through verbal or nonverbal acts, e.g. humiliating, intimidating, or threatening.
	Abandonment	Desertion of a vulnerable elder by anyone who has assumed the responsibility for care or custody of that person.
	Self-neglect	Characterized as the failure of a person to perform essential, self-care tasks and that such failure threatens his/her own health or safety.
Association on Aging National Center on Elder Abuse	Physical	Intentional use of physical force that results in illness, injury, pain or functional impairment.
	Sexual	Non-consensual sexual contact of any kind.
	Neglect	Caregivers or other responsible parties failing to provide food, shelter, health care, or protection.
	Financial	Misappropriation of an older person's money or property
	Emotional	Inflicting mental pain, anguish, or distress on a person
	Self-neglect	A person who fails to perform self-care tasks such that it threatens his/her own health or safety
Federal Department of Justice Office of Victims of Crime	Elder Abuse/Mistreatment	Any knowing, intentional, or negligent act that causes harm or creates a serious risk of harm to an older person by a family member, caregiver, or other person in a trust relationship. Elder abuse may include abuse that is physical, emotional/psychological (including threats), or sexual; neglect (including abandonment); and financial exploitation.

Core Members: A core member is an organization that sends a representative to attend each E-MDT meeting. For more information on Core Members, see the [E-MDT Membership](#) section of the E-MDT Policies.

Elder: For the purposes of the Initiative, elder is defined as an individual aged 60 or older.

Enhanced Multidisciplinary Team: A county-based E-MDT brings together professionals from a variety of disciplines and systems to stop all forms of elder abuse - financial exploitation, physical abuse, psychological abuse, sexual abuse, and neglect by others - at the earliest possible juncture. The primary focus for team members is to identify, investigate, and intervene in cases of elder abuse, restore the safety and security of older adults, and protect their assets. Together, team members achieve this through coordinated case reviews and tailored responses to each situation.

- E-MDTs are coordinated and facilitated by an E-MDT Coordinator, typically housed in an E-MDT Multi-County Hub.

- E-MDTs provide a comprehensive response to complex elder abuse cases involving county residents who are 60 years of age and older.
- Core membership of county-based E-MDTs draws upon professionals within the county from aging and social services, Adult Protective Services, the financial industry, community legal services, law enforcement, and others identified for the team. Teams also include the specialty services that make the multidisciplinary team “enhanced” by formally including access to a forensic accountant, a geriatric psychiatrist (or other qualified mental health professional), and community legal services.
- Most E-MDT core members serve as part of their job responsibilities; their participation is an in-kind donation from their organizations. Professionals such as forensic accountants, geriatric psychiatrists, and community legal service providers may be retained on a contractual basis.

E-MDT Coordinator: The E-MDT Coordinator facilitates the work of the E-MDTs and conducts the day-to-day operations of the team. The Coordinator strengthens the team by coordinating and facilitating E-MDT meetings; fostering clear and up-to-date communication among team members at and between team meetings; facilitating case consults with experts from social work, psychiatry, geriatrics, neuropsychology, and law enforcement; and collecting data and reporting on findings. For more information on the E-MDT Coordinator, see the [E-MDT Coordinator](#) section of the E-MDT Policies.

Liaison Members: A liaison member is an organization that does not send a representative to attend each team meeting but is available to attend for cases that directly involve them. For more information on Liaison Members, see the [E-MDT Membership](#) section of the E-MDT Policies.

Multi-County Hub: A Multi-County Hub is a host organization that is responsible, via its E-MDT Coordinator(s), for the establishment, coordination, and implementation of a county-based E-MDT in each of the counties in its region. There are eleven regions that have been established for this Initiative.

Older Adult: See definition of “[Elder](#).”

Regional Hub: See definition of “[Multi-County Hub](#).”

Specialty Services: Multidisciplinary teams are “enhanced” by formally including access to three Specialty Services: a forensic accountant, a geriatric psychiatrist (or other qualified mental health professional), and community legal services. For more information on Specialty Services, see the [Specialty Services](#) section of the E-MDT Policies.

Attachment 2: Member Roles (SAMPLE)

Each member brings his/her particular area of expertise to the E-MDT. The following lists the key components that some of the members provide:

Adult Protective Services

- Provides expert input on reviewed cases and provides appropriate follow-up, where needed
- Conducts case investigation and intervention, when appropriate
- Acts as liaison between the E-MDT and Department of Human/Social Services
- Provides expert input as to county systems and Adult Protective Services

Forensic Accountant

- Participates in regular E-MDT meetings, as requested;
- Provides expert input and recommendations on cases reviewed;
- Prepares forensic reviews of tax, accounting, legal and other documents that the E-MDT provides on behalf of victims;
- Prepares reports, as requested;
- Is available to testify in deposition and/or trial, as necessary.

For additional information, refer to [Reference Document 1: The Forensic Accountant Role.](#)

Geriatric Psychiatrist (or other qualified mental health professional)

- Participates in regular E-MDT meetings, as requested;
- Provides expert input and recommendations on cases reviewed;
- Provides expert information regarding medical and mental health concerns, for cases reviewed;
- Acts as liaison between the E-MDT and medical and mental health professionals;
- Accepts referrals for capacity evaluations, as necessary.
- Is available to testify in deposition and/or trial, as necessary.

For additional information, refer to [Reference Document 2: Role and Responsibilities of Geriatric Psychiatrists or Geropsychiatrists.](#)

Community Legal Services

- Provides expert input and recommendations on civil cases reviewed;
- Researches and/or provides legal history related to civil cases reviewed, as needed;
- Provides pertinent information regarding laws related to all forms of elder abuse;
- Provides civil legal services on case-by-case basis, as appropriate.

For additional information, refer to [Reference Document 3: The Role of Civil Attorneys on Elder Abuse Multidisciplinary Teams](#)

District Attorney's Office

- Provides expert input and recommendations on cases reviewed;
- Acts as liaison between the E-MDT and the criminal legal system;
- Researches and/or provides criminal legal history related to cases reviewed, as needed;
- Provides pertinent information regarding laws related to all forms of elder abuse;
- Prosecutes cases involving criminal activity, as appropriate.

For additional information, refer to [Reference Document 4: The Role of Local Prosecutors on Elder Abuse Multidisciplinary Teams](#).

Law Enforcement

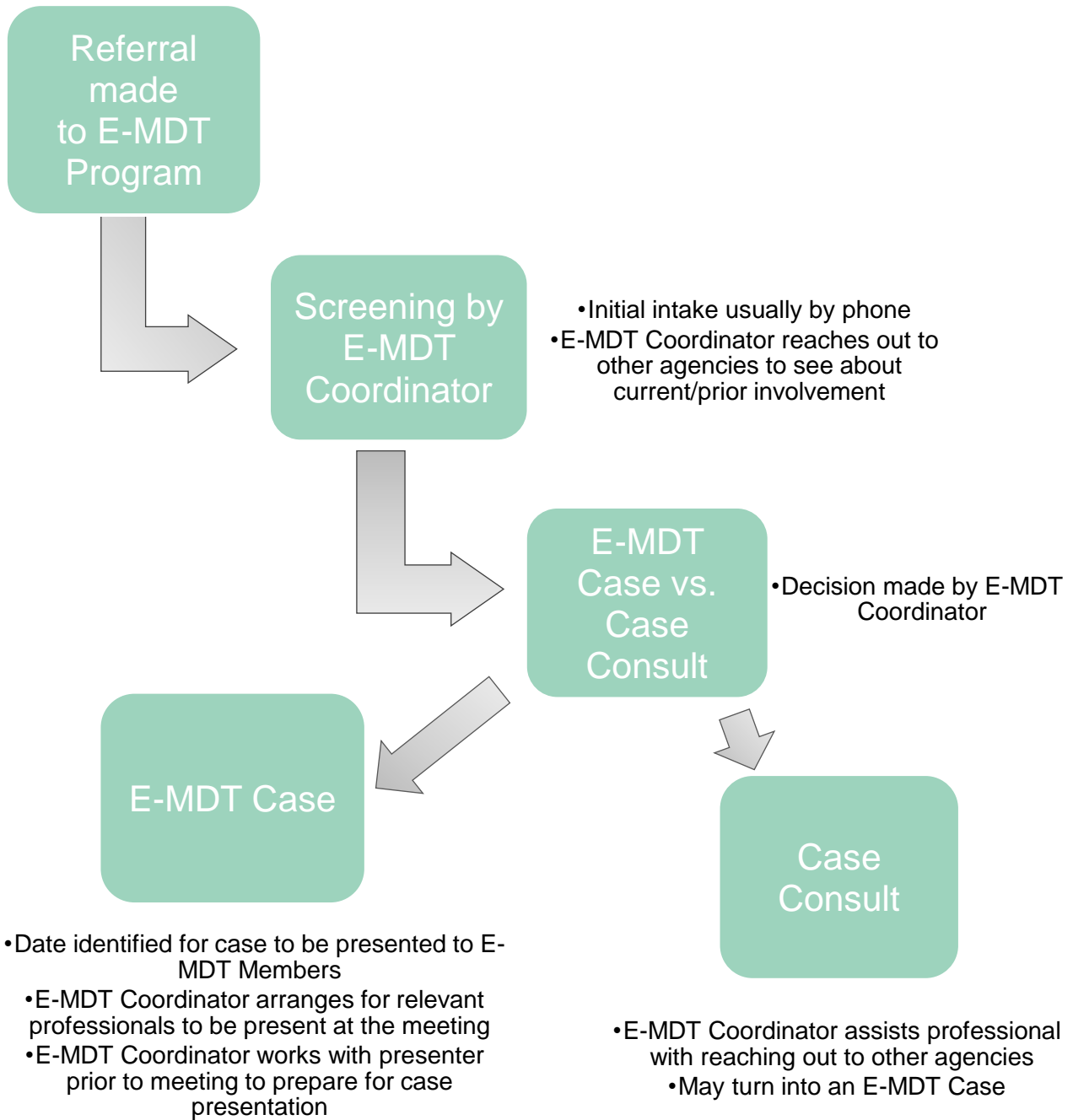
- Provides expert input and recommendations on cases reviewed;
- Assists team members in understanding legal and law enforcement-related issues involved in cases;
- Provides pertinent case information as necessary/possible;
- Acts as liaison between the E-MDT and various law enforcement agencies;
- Initiates investigation when appropriate.

Note regarding Law Enforcement Core Membership: Identify a representative from the Sheriff's Office, New York State Police, or other local law enforcement entity for the specific county. New York State Police have jurisdiction throughout the state, so it may be appropriate to involve them on specific cases that cross county lines. Due to limited staffing for many police departments, it may be appropriate to specifically invite the department when a case falls within its jurisdiction.

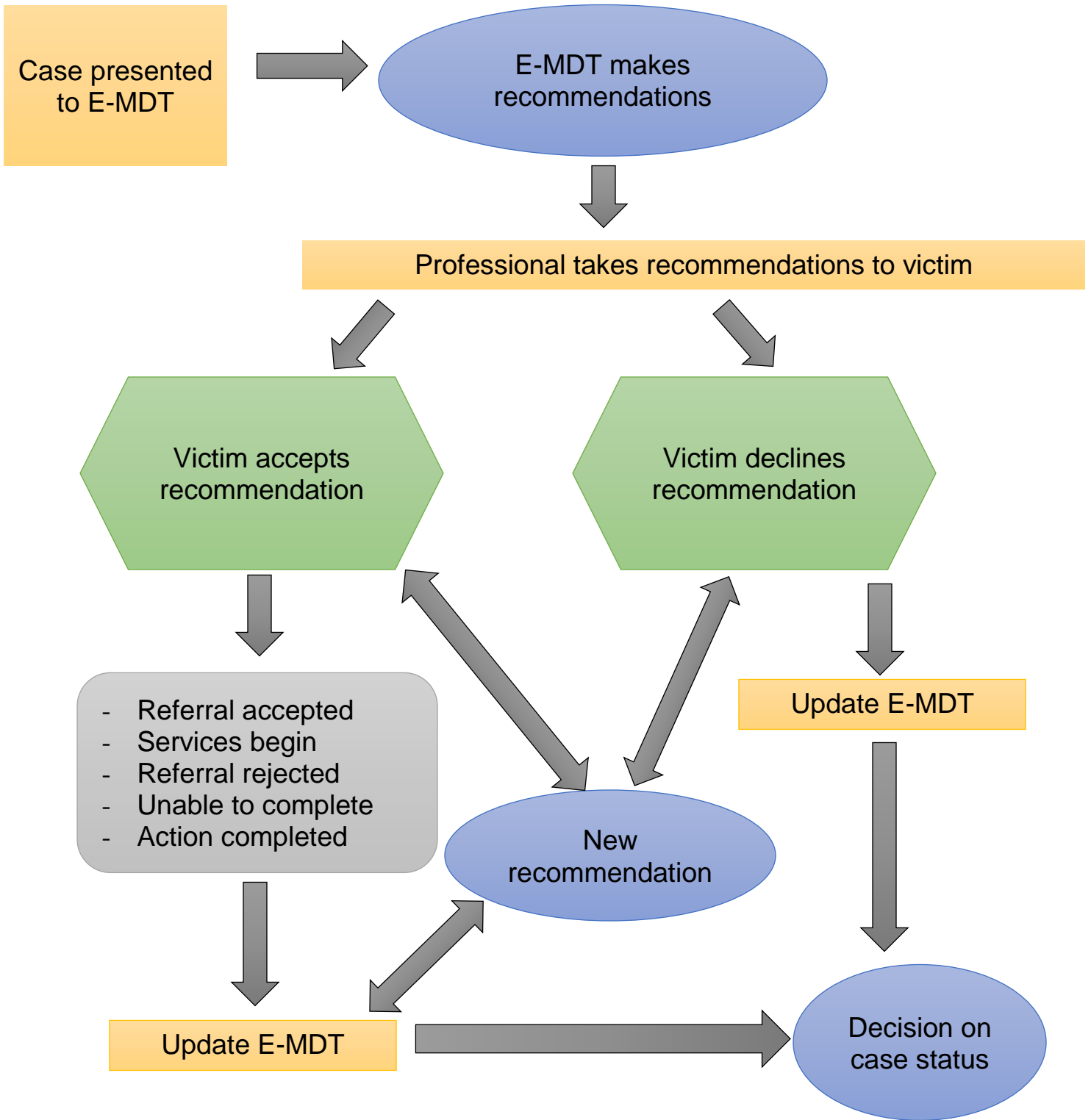
Area Agency on Aging

- Provides expert input and recommendations on cases reviewed;
- Provides information on services available and how to access them;
- Assists with case follow up, when appropriate.

Attachment 3: Referral Process (SAMPLE)



Attachment 4: Case Flow (SAMPLE)



Reference Document 1: The Forensic Accounting Role

The Role of Forensic Accountants in the Elder Abuse Interventions and Enhanced Multidisciplinary Team (E-MDT) Initiative

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Acronyms

Acronym	Term
ACFE	Association of Certified Fraud Examiners
AICPA	American Institute of Certified Public Accountants
APS	Adult Protective Services
CFE	Certified Fraud Examiner
CIA	Certified Internal Auditor
CPA	Certified Public Accountant
DFTA	New York City Department for the Aging
E-MDT	Enhanced Multidisciplinary Team
FEIST	Financial Exploitation Investigation Suite of Tools
NYCEAC	New York City Elder Abuse Center
NYSOFA	New York State Office for the Aging
OVS	New York State Office of Victim Services
SAFTA	Senior Abuse Financial Tracking and Accounting Tool
VOCA	Victims of Crime Act

Introduction and Background

The Enhanced Multidisciplinary Team (E-MDT) model, an adaptation of the MDT in Brooklyn, NY, was piloted in New York State from 2012-2016. Funding was provided by a federal grant from the Administration for Community Living/Administration on Aging under the Prevention and Public Health Fund through the Affordable Care Act. The pilot was implemented in seven counties in the Finger Lakes region (Monroe, Ontario, Wayne, Livingston, Yates, Seneca, and Cayuga) and in Manhattan in New York City. During 2016-2017, New York State funded the program to sustain the original eight E-MDTs, expand the initiative to Western NY (Erie), Central NY (Onondaga), and the Southern Tier (Schuyler and Chemung), as well as enhance the Brooklyn MDT to become an E-MDT. A total of thirteen E-MDTs were sustained, enhanced, or newly established with state funds. Starting in 2017, the New York City Department for the Aging (DFTA) also began funding the New York City Elder Abuse Center (NYCEAC) at Weill Cornell Medicine to operate E-MDTs in all five boroughs in New York City.

Due to the effectiveness of the E-MDT model to address elder abuse and the recognized need for the E-MDT intervention to be available statewide, in 2017 the NYS Office of Victim Services (OVS) and New York State Office for the Aging (NYSOFA) partnered with each other and with Lifespan of Greater Rochester Inc. and NYCEAC at Weill Cornell Medicine to establish and implement the OVS/VOCA Elder Abuse Interventions and E-MDT Initiative. DFTA continues to also fund NYCEAC to operate E-MDTs in New York City. The purpose of the E-MDT Initiative is to support existing E-MDTs, expand E-MDTs statewide, and develop technical assistance and other supports for successful statewide implementation.

The E-MDT Initiative is implemented in New York State through a network of regional organizations that administer program implementation and provide E-MDT Coordinator services for each county. Eleven regions have been established for the E-MDT Initiative. County-based E-MDTs bring together professionals in that county to stop all forms of elder abuse - financial exploitation, physical abuse, psychological abuse, sexual abuse, and neglect by others - at the earliest possible juncture. E-MDTs include representatives from Adult Protective Services (APS), aging services, health and human services, financial/banking services, law enforcement, and others who meet under the facilitation of an E-MDT Coordinator. The enhancements provide access to forensic accountants, geriatric psychiatrists/mental health professionals, and civil legal services.

This document focuses on the role of the forensic accountant in the E-MDT Initiative. It includes information about forensic accounting; describes how the forensic accounting profession adds expertise and knowledge to the E-MDTs; and provides information about what a forensic accountant may be able to provide to an E-MDT Coordinator and team with respect to case reviews, participation, and feedback to E-MDTs.

The roles and functions of the E-MDT Coordinator as outlined in this document may be performed by one or more designated professional(s) from within his/her organization, depending on the organizational structure and local county needs.

The forensic accountant provides many benefits to the E-MDT Initiative, including:

- Strengthening case outcomes;
- Contributing to developing a holistic plan;
- Strengthening and sharpening team members' knowledge about financial exploitation;
- Analyzing financial records and reporting back to the E-MDT; and
- Providing expert testimony in court proceedings as needed.

Defining “Forensic Accounting”

“Forensic accounting” is the practice of accountancy that uses auditing and other skills to produce evidence of financial matters for use in various legal proceedings and elder abuse interventions. Forensic accountants are employed in many capacities across various industries. A forensic accountant’s experience may consist of internal audits, compliance audits, private investigation, litigation support, and business valuation, in addition to traditional financial statement auditing, bookkeeping, or tax work.

Education and Professional Standards

Education often includes a certificate or bachelor’s degree in accounting, and possibly post-graduate education in business, accounting, forensic accounting, or even law. Forensic accountants are usually Certified Public Accountants (CPAs), Certified Fraud Examiners (CFEs), Certified in Financial Forensics (CFFs), Certified Internal Auditors (CIAs), or maintain other designations related to their area(s) of expertise.

CPAs and CFEs are guided by professional standards maintained by the American Institute of Certified Public Accountants (AICPA) and the Association of Certified Fraud Examiners (ACFE), respectively. These professional standards require holders to adhere to a code of ethics or code of professional conduct in their practice. A code of professional conduct provides principles, rules, and interpretations governing member responsibilities, including protecting the public interest, maintaining integrity, keeping appropriate policies and procedures, and adequately supervising employees’ work. AICPA and ACFE both prohibit accountants from disclosing confidential client information except in limited circumstances (e.g., with the client’s permission or pursuant to a subpoena). Violation of a code of ethics or code of professional conduct may result in suspension or revocation of the license or certification.

Professional standards also require completion of continuing professional education requirements that are measured in credit hours. CPAs in New York State must earn 120 credit hours over a three-year period in certain subject areas, and CFEs must earn 20 credit hours per year in certain subject areas.

Most training of forensic accountants in general occurs post-graduation by obtaining certifications, continuing education, and, of course, fraud-related work experience. However, colleges and universities have begun incorporating forensic accounting classes, certificate programs, and even graduate degree programs into their curricula. Still, students graduating with a focus in forensic accounting are encouraged to obtain CPA licensure before pursuing more forensic accounting-specific certifications. A CPA license is the most desirable credential for an accountant acting as an expert witness in court proceedings, which any forensic accountant working with an E-MDT must be prepared to do. Obtaining CPA licensure requires 150 credit hours in undergraduate or graduate programs related to

business and accounting, passing grades on all four parts of the Uniform CPA Exam within an 18-month window, and at least one year of work supervised by a licensed CPA. Current CPAs may pursue certifications specific to forensic accounting in an attempt to enter the field but qualifying as a witness in court proceedings depends largely on experience. Some District Attorney's offices and/or police departments may also employ forensic accountants.

Role of Forensic Accountants on the E-MDTs

The forensic accountant under contract for the E-MDT Initiative is Webber CPA, PLLC in Rochester, NY. Webber CPA has been working with E-MDTs since 2013. The forensic accountants at Webber CPA are CPAs and/or CFEs.

Introducing Forensic Accounting

In cases with potential financial exploitation, the forensic accountant provides evidence of whether a victim's assets may have been stolen or misused and in many cases by whom. The forensic accountant analyzes financial documents and other information gathered in E-MDT meetings or case consultations to build a narrative that is useful to law enforcement, the court system, elder abuse professionals, and victims. The forensic accountant's concise compilation of fact-based evidence can aid elder abuse professionals in exploitation cases, determining service plans, and seeking justice for the victim. The forensic accountant is available at every phase of a financial exploitation case, including but not limited to identifying documents to request and suggesting questions to ask victims to help move a case forward, to providing expert witness testimony on their written reports.

Training for E-MDTs

The E-MDT Coordinator provides training and guidance to team members about the role of the forensic accountant, types of services available and referral procedures. Webber CPA is available to give a formal presentation for newly developed E-MDTs on what a forensic accountant is able to do for the team. Additional training and support regarding the use of the forensic accountant is available through the Technical Assistance providers.

Forensic Accounting and E-MDT Cases

Elder abuse cases are referred to the E-MDT by team members or other professionals in the community via the E-MDT Coordinator. If a qualifying potential financial exploitation case is brought to the attention of a forensic accountant from an external source, the forensic accountant may encourage the source to refer the case to the E-MDT Coordinator.

If during a team meeting, the team recommended or requested that a forensic accountant perform a forensic analysis for a particular purpose, this is included in the follow up steps or "action plan" resulting from the meeting.

The E-MDT Coordinator will review the case information to determine whether a case is appropriate to refer to the forensic accountant. Any referrals to the forensic accountant will be made by the E-MDT Coordinator.

Referral of a case to the forensic accountant may be recommended or requested for several reasons, including:

- Case worker support;
- Determine the need for/enhance guardianship application;
- Law enforcement involvement desired;
- Law enforcement support;
- Engage/support the DA's Office; and
- Assist victim with understanding the nature and extent of exploitation.

The E-MDT Coordinator is responsible for informing the forensic accountant of information provided during the team meeting and facilitating communication between the forensic accountant and the referring party. This may include sharing contact information and any relevant documentation that existed at that time, such as bank records, etc.

The E-MDT Coordinator is copied in on all communication between the forensic accountant and referring party. In cases involving a potential criminal prosecution, the forensic accountant may not be able to include the E-MDT Coordinator on communications with law enforcement and/or the DA's office.

Providing Information to the Forensic Accountant

The Coordinator should provide the forensic accountant with pertinent financial records collected by the referring party. Relevant documents may include bank statements, Power of Attorney forms, credit card statements, credit reports, investment account statements, loan documents, real estate records, tax returns, estate documents, wills, and insurance policies.

When providing information to the Coordinator or Forensic Accountant, referring parties and other team members should follow the confidentiality, document sharing, and data security policies and protocols of their individual organizations.

The financial records should encompass a timespan, including prior to and during the period of suspected abuse. This helps to further understand the pattern and duration of the suspected exploitation. Webber CPA generally recommends six months prior to the approximate date of the suspected perpetrator's involvement. Alternate time periods are sometimes suggested by law enforcement based on the statute of limitations or other factors.

The forensic accountant cannot request documents from financial institutions directly. For criminal matters, the local DA's office may request the documents via a subpoena; in some counties, the DA's office will need to include a disclosure with its subpoena stating that the forensic accountant can have access to the records. Reliance on subpoenas is often necessary because even though New York State Social Services Law and Banking Law permit financial institutions to provide financial records to APS not all cases brought to the team are APS-eligible.

The E-MDT Coordinator should bring any questions to the Technical Assistance providers and Webber CPA, including if assistance is needed with referral procedures and determining the appropriate time span for financial records.

Role of Forensic Accountant at E-MDT Meetings

The forensic accountant's participation in E-MDT meetings is often based on availability and whether the forensic accountant has findings and recommendations to share with the team. Attendance by Webber CPA is conducted via teleconference, video conference, or in-person. Each employee of Webber CPA signs the E-MDT Confidentiality Agreement on an annual basis for each team whose meetings they participate in.

When Webber CPA attends an E-MDT meeting, responsibilities include, but are not limited to: advising team members on financial exploitation cases, including the specific documents needed to develop the case; determining an appropriate timespan for the documents to be collected or subpoenaed; and discerning elements of exploitation as each case is presented, pointing these elements out to the team during the case discussion.

For example:

- *Mrs. A's bank statement shows a \$500 payment to a credit card company. Has the client authorized a credit report to see what other debt might be outstanding?*
- *Mr. B's tax return is showing some dividends from an investment account. Do we know whether the suspected perpetrator had access to that account too?*

Role of the Forensic Accountant in Elder Abuse Case Consultations

To prepare for an E-MDT meeting involving the forensic accountant, the E-MDT Coordinator may consult with the forensic accountant for assistance in determining whether or how a new case should be efficiently and effectively presented to the E-MDT. Consultation would include a brief review of the facts of the case, a summary of the documents collected so far, and whether the case should be brought to the team before a forensic analysis was completed, or afterward so that the team may have more evidence for consideration.

For example:

- *An APS case worker is investigating a financial exploitation case and needs assistance identifying what documents and time periods to request from a client's bank.*
- *A law enforcement officer is investigating a financial exploitation case and requests that the forensic accountant review a credit report with her so that she understands it and can formulate the appropriate questions for a suspect interview.*

Please note that for case consults, the referral source needs to go through the E-MDT Coordinator to access the forensic accountant.

Review, Analysis, Findings, and Recommendations

Forensic Accountant Review and Analysis

A review of records consists of analyzing available account statements; documentation of regular expenses of the victim(s); Internet and public record search results; and other background information gathered on the victim(s), perpetrator(s), relatives, or other involved parties. Based on the initial review, the forensic accountant may request additional documentation from the E-MDT Coordinator or referring party deemed necessary. Documents may be requested by law enforcement via subpoena or by APS via a records request, or they may be provided by another professional involved with the case with the authorization of the victim and/or the victim's agent or representative.

Once records are received, the forensic accountant analyzes financial data to reveal activity incongruous with the client's normative spending patterns and lifestyle as observed in the data and/or otherwise described by individuals involved in the case.

Forensic Accountant Findings and Recommendations

Once Webber CPA has completed its review and analysis, they will provide their findings and recommendations to the Coordinator and referring party. In cases involving a potential criminal prosecution, the forensic accountant may provide the findings and recommendations directly to law enforcement and/or the DA's office. Findings and recommendations may be communicated in any of the following forms, depending on the needs of the E-MDT relative to the specific case:

Deliverable	Description	Purpose
Draft Schedules/"Recs"	Draft versions of the supplemental schedules that would ultimately support a report or memo. Called "Recs", these schedules show a reconciliation of the account's beginning and ending balances by summarizing all activity into and out of the account over a period of time.	Illustrating activity in the account for the team and/or select participants. Often emailed to case workers or law enforcement to request additional information and/or documentation before a report or memo can be drafted.
Memo	Abbreviated narrative containing fact pattern, summary charts, select relevant findings, and supplemental schedules.	Briefing the team and/or select participants regarding findings when legal intervention is not yet decided upon/recommended.
Report	Full narrative containing fact pattern, accounts reviewed, summary charts, written findings, and supplemental schedules.	Grand Jury, trial, guardianship, and other legal proceedings.

The narrative section of the Memo and Report gives a brief overview of the facts of the case, the scope of the review and any limitations encountered, resultant findings, and any recommendations for further action. The findings may explain the victim's regular financial activity before the perpetrator's involvement and compare it to the financial activity observed in the bank records following the perpetrator's involvement. This comparison is often a crucial piece of evidence in a financial exploitation case.

When the forensic accountant makes recommendations for further action, there is a benefit to discussion with the referral source and/or E-MDT to determine if the recommendations should become action steps.

If the forensic accountant's report is used as part of a civil or criminal matter, the forensic accountant is at times required to testify on the contents of the report in a court of law, such as guardianship hearings, Grand Jury, or trial.

Appendices

Appendix A: Helpful Resources

There are a number of helpful resources available to assist E-MDT Coordinators and team members with financial exploitation cases. Some options are identified below:

- Consumer Financial Protection Bureau
 - Resources on several financial topics, including financial education, managing someone else's money, and working with older adults.
 - <https://www.consumerfinance.gov/>
- Federal Trade Commission
 - Information on scams, identify theft, the Do Not Call Registry, and other topics.
 - <https://www.consumer.ftc.gov/>
- Financial Exploitation Investigation Suite of Tools (FEIST)
 - An optional tool for caseworkers, the FEIST serves as a guide to help organize financial information before sending to Webber CPA.
- National Adult Protective Services Association
 - Fact sheets on senior financial exploitation, sample forms to request information from financial institutions, webinars, and other resources.
 - <https://www.napsa-now.org/get-informed/what-is-financial-exploitation/>
 - <https://www.napsa-now.org/get-informed/what-is-financial-exploitation/financial-services/>
 - <https://www.napsa-now.org/get-informed/exploitation-resources/>
- New York State Tips on Preventing Elder Financial Exploitation
 - Information on the risks and warning signs of financial exploitation, scams, trusted person abuse, and reporting financial exploitation.
 - <https://www.ny.gov/tips-preventing-elder-financial-exploitation>
- New York State Attorney General Smart Seniors Initiative
 - Tips on smart investments, how to protect against scams, and other resources.
 - <https://ag.ny.gov/smart-seniors>
- New York State Department of Financial Services
 - Resources on identifying elder financial exploitation and reporting suspected abuse
 - https://www.dfs.ny.gov/consumers/scams_schemes_frauds/tips_for_preventing_elder_financial_exploitation
- Senior Abuse Financial Tracking and Accounting Tool (SAFTA)
 - An optional tool to assist law enforcement investigating suspicious financial patterns and prosecuting cases of elder financial exploitation.
 - <https://www.justice.gov/elderjustice/safta-senior-abuse-financial-tracking-and-accounting-tool-toolkit>
- United States Department of Justice Elder Justice Initiative
 - Information about financial scams and an Elder Abuse Resource Roadmap.
 - <https://www.justice.gov/elderjustice/financial-exploitation>
- Webber CPA
 - The forensic accountant for the E-MDT Initiative.
 - <https://www.webbercpa.com/>
- Your E-MDT Initiative Technical Assistance Provider
 - For information on your E-MDT Initiative Technical Assistance Provider, contact Allison Granata, Assistant Director for E-MDT Initiatives, Upstate Elder Abuse Center at Lifespan, at (585) 244-8400 or agranata@lifespan-roch.org.

Appendix B: Webber CPA Financial Record Request Tip Sheet



Financial Record Request Tip Sheet

Banking and consumer privacy laws require lawful consent for a third party to access an alleged victim's personal financial records, making it difficult for concerned parties to investigate financial exploitation against older adults who may not be capable of giving such consent. However, the following parties have legal authority to access this information when fraud is suspected:

- Power of Attorney or Guardian
- Adult Protective Services
- Law Enforcement

Requests for records from financial institutions must be made in writing and submitted through the appropriate channels. Check the financial institution's website or call its fraud investigations department to confirm specific procedures.

At minimum, you should request **monthly statements** for any and all accounts held individually or jointly by the alleged victim for at least two years. If you know approximately when the alleged perpetrator(s) became involved, request six months prior to that date.

In addition, you should also request the following **supporting documents** to provide a complete accounting of spending during the period of the alleged abuse:

- ✓ Account opening/change documents (sometimes called "signature cards")
- ✓ Deposit slips & items
- ✓ Withdrawal slips
- ✓ Copies of canceled checks (front and back)
- ✓ Teller notes
- ✓ Transfer details/offsets showing origin/destination account numbers & financial institutions
- ✓ Power of Attorney documents on record
- ✓ Bank checks
- ✓ Mortgage/loan statements/records
- ✓ Credit card statements

Appendix C: National Clearinghouse on Abuse in Later Life Financial Exploitation Investigation Checklist for Law Enforcement



Financial Exploitation Investigation Checklist: Sources of Evidence

Bank records

- Bank accounts
- Certificates of deposit
- Signature cards
- Account opening documents
- Bank surveillance footage
- Safe deposit box visitors' log
- Canceled checks (front and back)
- Cashiers' checks
- Deposit and withdrawal slips
- Cash log or teller journal
- Wire authorization forms
- Bank correspondence
- Suspicious Activity Reports (SARs)
- Currency Transaction Reports (CTRs)
- Mortgage/home equity loan records
- Direct deposit records
- ATM records
- Recurring bill payment history
- Credit reports

Brokerage account records

- Stocks
- Bonds
- Money Market accounts
- Annuities
- 401(k)/IRA account records

Social Security

- Payment records
- Representative payee information
- Disability income statements

IRS

- Tax returns
- W-2 forms

From the home

- Home furnishings
- Personal effects
- Vehicles
- Insurance policies
- Burial trusts
- POA documents
- Identification (passports, IDs)
- Credit card records
- Records of loans/gifts to friends/family
- Identity of accountant, tax preparer, any financial advisors
- Rental property records
- Alleged abuser's income source/amount
- Bills and unpaid bill notices

Register of deeds/court records

- Local property records
- Wills and/or trust documents
- Bankruptcy court records
- Letters of guardianship/conservatorship
- Civil litigation records

National Clearinghouse on Abuse in Later Life
A project of End Domestic Abuse Wisconsin: The Wisconsin Coalition Against Domestic Violence
1400 E. Washington Ave., Suite 227 | Madison, Wisconsin 53703 | Phone: 608-255-0539
www.ncall.us

Elder Abuse Interventions and E-MDT Initiative Forensic Accounting Reference Document October 2020

This Reference Document provides an overview for E-MDT Coordinators on the role of the Forensic Accountant. It is a supplement to, and not a replacement for, other E-MDT Initiative documents.

The roles and functions of the E-MDT Coordinator as outlined in this document may be performed by one or more designated professional(s) from within his/her organization, depending on the organizational structure and local county needs.

Defining “Forensic Accounting”

“Forensic accounting” is the practice of accountancy that uses auditing and other skills to produce evidence of financial matters for use in various legal proceedings and elder abuse interventions. The forensic accountant under contract for the E-MDT Initiative is Webber CPA, PLLC in Rochester, NY. Webber CPA has been working with E-MDTs since 2013.

Introducing Forensic Accounting

In cases with potential financial exploitation, the forensic accountant provides evidence of whether a victim’s assets may have been stolen or misused and in many cases by whom. The forensic accountant analyzes financial documents and other information gathered in E-MDT meetings or case consultations to build a narrative that is useful to law enforcement, the court system, elder abuse professionals, and victims. The forensic accountant’s concise compilation of fact-based evidence can aid elder abuse professionals in exploitation cases, determining service plans, and seeking justice for the victim. The forensic accountant is available at every phase of a financial exploitation case, including but not limited to identifying documents to request and suggesting questions to ask victims to help move a case forward, to providing expert witness testimony on their written reports (see chart on page 3 for descriptions of deliverable types).

Training for E-MDTs

The E-MDT Coordinator provides training and guidance to team members about the role of the forensic accountant, types of services available and referral procedures. Webber CPA is available to give a formal presentation for newly developed E-MDTs on what a forensic accountant is able to do for the team. Additional training and support regarding the use of the forensic accountant is available through the Technical Assistance providers.

Forensic Accounting and E-MDT Cases

When a forensic accounting is recommended or requested, the E-MDT Coordinator will review the case information to determine whether a case is appropriate to refer to the forensic accountant. Referrals made to the forensic accountant will be made by the E-MDT Coordinator, and may be recommended or requested for several reasons, including:

- Case worker support;
- Determine the need for/enhance guardianship application;
- Law enforcement involvement desired;
- Law enforcement support;

Elder Abuse Interventions and E-MDT Initiative Forensic Accounting Reference Document October 2020

- Engage/support the District Attorney's Office; or
- Assist victim with understanding the nature and extent of exploitation.

Role of Forensic Accountants at E-MDT Meetings

Participation in E-MDT meetings is often based on availability and whether the forensic accountant has findings and recommendations to share with the team. The forensic accountant may participate via teleconference, video conference, or in-person. Each employee of Webber CPA signs the E-MDT Confidentiality Agreement on an annual basis for each team whose meetings they participate in.

In an E-MDT meeting, the forensic accountant is responsible for, but not limited to: advising team members on financial exploitation cases, including the specific documents needed to develop the case; determining an appropriate timespan for the documents to be collected or subpoenaed; and discerning elements of exploitation as each case is presented, pointing these elements out to the team during the case discussion.

Providing Information to the Forensic Accountant

The Coordinator should provide the forensic accountant with pertinent financial records collected by the referring party. Relevant documents may include bank statements, Power of Attorney forms, credit card statements, credit reports, investment account statements, loan documents, real estate records, tax returns, estate documents, wills, and insurance policies. When providing information to the Coordinator or Forensic Accountant, referring parties and other team members should follow the confidentiality, document sharing, and data security policies and protocols of their individual organizations.

The financial records requested should encompass a timespan, including prior to and during the period of a suspected perpetrator's involvement to further understand the pattern and duration of the suspected exploitation. Webber CPA generally recommends six months prior to the approximate date of the suspected perpetrator's involvement.

The forensic accountant cannot request documents from financial institutions directly. For criminal matters, the local District Attorney's (DA's) office may request the documents via a subpoena; in some counties, the DA's office will need to include a disclosure with its subpoena stating that the forensic accountant can have access to the records.

The E-MDT Coordinator should bring any questions to the Technical Assistance providers and Webber CPA, including if assistance is needed with referral procedures and determining the appropriate time span for financial records.

Findings and Recommendations

Once Webber CPA has completed its review and analysis, they will provide their findings and recommendations to the Coordinator and referring party. In cases involving a potential criminal prosecution, the forensic accountant may provide the findings and recommendations directly to law enforcement and/or the DA's office. Findings and recommendations may be communicated in any of the following forms, depending on the needs of the E-MDT relative to the specific case:

Elder Abuse Interventions and E-MDT Initiative Forensic Accounting Reference Document October 2020

Deliverable	Description	Purpose
Draft Schedules/“Recs”	Draft versions of the supplemental schedules that would ultimately support a report or memo. Called “Recs”, these schedules show a reconciliation of the account’s beginning and ending balances by summarizing all activity into and out of the account over a period of time.	Illustrating activity in the account for the team and/or select participants. Often emailed to case workers or law enforcement to request additional information and/or documentation before a report or memo can be drafted.
Memo	Abbreviated narrative containing fact pattern, summary charts, select relevant findings, and supplemental schedules.	Briefing the team and/or select participants regarding findings when legal intervention is not yet decided upon/recommended.
Report	Full narrative containing fact pattern, accounts reviewed, summary charts, written findings, and supplemental schedules.	Grand Jury, trial, guardianship, and other legal proceedings.

When the forensic accountant makes recommendations for further action, there is a benefit to discussion with the referral party and/or E-MDT to determine if the recommendations should become action steps.

Reference Document 2: Role and Responsibilities of Geriatric Psychiatrists or Geropsychiatrists

Elder Abuse Prevention Interventions (EAPI) Initiative in New York State

Policies and Procedures: Enhanced Multi-Disciplinary Teams SUPPLEMENT

Role and Responsibilities of Geriatric Psychiatrists or Geropsychiatrists

MAY 2017

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Acronyms and Terms

Acronym / Phrase	Term
ACL	Administration for Community Living
APS	Adult Protective Services
DA	District Attorney
DANY	District Attorney of New York (Manhattan)
EAPI	Elder Abuse Prevention Interventions Initiative
E-MDT	Enhanced Multi-Disciplinary Team
Finger Lakes	Finger Lakes region: Counties participating in EAPI pilot
Geriatric Psych or Geropsych	Geriatric Psychiatry, also known as Geropsychiatry (used interchangeably.)
Lifespan	Lifespan of Greater Rochester
MDT	Multi-Disciplinary Team
NYCEAC	New York City Elder Abuse Center
NYSOFA	New York State Office for the Aging
NYS OCFS	New York State Office of Children and Family Services
WCM	Weill Cornell Medicine

Enhanced Multi-Disciplinary Team (E-MDT) SUPPLEMENT Role and Responsibilities of Geriatric Psychiatrists or Geropsychiatrists

Introduction and Background

The New York State Elder Abuse Prevention Interventions (EAPI) Initiative was launched in New York State in 2012 under a grant from the Administration for Community Living (ACL) to the New York State Office for the Aging (NYSOFA).¹ Project partners convened to implement an intervention designed to prevent and address financial exploitation and elder abuse. By bringing together entities from each unique local project site, coordinated, enhanced multi-disciplinary teams (E-MDTs) were established to provide effective cross-systems collaboration and specialized responses. The overall aim was to effectively restore safety and security to older adults. The E-MDT model is currently being implemented in Manhattan by the New York City Elder Abuse Center (NYCEAC), hosted by the Weill Cornell Medicine (WCM), and in seven counties in the Finger Lakes Region in upstate New York by Lifespan of Greater Rochester Inc. (Lifespan). The model is based on an existing multi-disciplinary team (MDT) structure previously established in Brooklyn, NY. In the E-MDT model, participants include partner agencies and stakeholders representing a range of disciplines, including Adult Protective Services (APS), the aging services network, financial services, law enforcement, legal, social service, victim assistance, health care, mental health, and other agencies and organizations.

The EAPI Initiative in New York targets frail adults aged 60 and over residing in Manhattan and the Finger Lakes region for whom there is evidence of financial exploitation and who also have at least one of the following characteristics: (1) health problems and/or physical impairments; (2) cognitive impairment or dementia; or (3) inadequate social support or a degree of social isolation that places them at high risk for becoming victims of abuse. Significant partners in the EAPI Initiative include: Project Director and additional staff from the New York State Office for the Aging (NYSOFA); key representatives from the New York State Office of Children and Family Services (OCFS) who oversee the Adult Protective Services (APS) program and other adult abuse prevention services and programming; Monroe County Office for the Aging (MCOFA) for project administration; Lifespan, the pilot site team lead for program administration, E-MDT coordination and implementation of the EAPI Initiative in the Finger Lakes; other local Finger Lakes region human service, protective services, health, mental health, legal, and law enforcement agencies; NYCEAC pilot site team lead and other staff from NYCEAC for program administration, E-MDT coordination, and implementation of the EAPI Initiative in Manhattan; New York City APS, and other Manhattan-based aging, elder abuse prevention, temporary shelter, health, mental health, legal, financial and law enforcement agencies.

¹ **EAPI Initiative Evaluation:** For the EAPI Initiative, the HHS Office of the Assistant Secretary for Planning and Evaluation (ASPE) contracted with NORC at the University of Chicago to design and conduct an evaluation of the EAPI interventions. NORC at the University of Chicago is an independent research institution that delivers reliable data and rigorous analysis to guide critical programmatic, business, and policy decisions. The purpose of the evaluation was to study the development and implementation of the state grantees' elder abuse interventions and report findings on the characteristics of victims and perpetrators of elder abuse or those at-risk, the use of prevention services, and outcomes. The Report is titled, *Developing and Conducting an Evaluation of AoA's Program to Prevent Elder Abuse: Final Report* (NORC at the University of Chicago, 2016).

The primary aim of the EAPI grant program is to address financial exploitation of older adults. Financial exploitation is a fast-growing and complex form of elder abuse. Under the current structure for addressing such cases, the local E-MDT Coordinators engage in consultation with team members, facilitate E-MDT meetings, and direct active joint investigations and interventions, with an emphasis on investigating potential and existing financial exploitation.

The E-MDTs developed for this pilot program differ from elder abuse multi-disciplinary teams that are emerging elsewhere across the country in two crucial areas: they feature the participation of professional forensic accountants to provide expertise in understanding and identifying action steps required in financial exploitation cases (see Roles and Responsibilities of Forensic Accountants document) and geriatric psychiatrists to assist the team with understanding a broad range of mental health concerns.

The Finger Lakes pilot, encompassing counties representing urban, suburban, and rural locations, also relies on the services of Dr. Elizabeth J. Santos, Associate Professor of Psychiatry at the University of Rochester School of Medicine and Dentistry and Director of the University of Rochester Medical Center's Memory Care Program and Strong Behavioral Health Older Adults Services to support the seven E-MDTs. In Manhattan, the two geriatric psychiatrists with the E-MDT are Dr. Robert Abrams, Professor of Psychiatry at Weill Cornell Medicine and attending psychiatrist in the Division of Geriatrics and Palliative Medicine and Dr. Nancy Needell, Assistant Professor of Clinical Psychiatry at Weill Cornell Medicine and Medical Director of the Weill Cornell Psychiatric Mobile Crisis Unit.

This Supplement focuses on the role of the Geriatric Psychiatrist, also known as a Geropsychiatrist, in the project and on the teams. The following document includes information about geriatric psychiatry, describing the key roles of this discipline and how it contributes to the work of the E-MDTs.

Defining Geriatric Psychiatrist

Geriatric psychiatrists, also known as geropsychiatrists, are physicians specializing in the diagnosis and treatment of mental disorders, including dementia, affective disorders, anxiety and personality disorders, late life addictions and psychoses, in adults aged 60 and older. They are psychiatrists, but the scope of their practice differs from that of other psychiatrists not only with respect to the age range of their patients, but also in the extensive collaborations with patients' other care providers that are required in the course of their clinical work. Geriatric psychiatrists must be knowledgeable about complex medical syndromes as well as the normative life experiences of older adults, notably adjustment to such age-related stressors as diminished social support networks and personal losses. Geriatric psychiatrists are considered expert diagnosticians in this area and are often called upon to certify decisional capacity and testify in court proceedings establishing guardianship and adjudicating testamentary disputes and undue influence cases. Finally, geriatric psychiatrists are experts in the use of psychotropic medications in the elderly, for whom psychopharmacologic indications and dosing procedures differ considerably from those used in the general adult population.

Certification in geriatric psychiatry is awarded after four years of general psychiatric training with at least one additional year of fellowship in geriatric psychiatry. An aspiring geriatric psychiatrist must pass The American Board of Psychiatry and Neurology's certification exams in both general and geriatric psychiatry; both require recertification every decade.

The Role of the Geriatric Psychiatrist at E-MDT Meetings and in Providing Case Consultations

The primary role for a geriatric psychiatrist working with E-MDTs is to provide information on mental health matters relevant to cases being presented to the team. The geriatric psychiatrist listens intently while cases are being presented and offers clarification on questions of mental health diagnosis, treatment and clinical course for the elder abuse victim and in some instances for the perpetrator as well.

This information assists the team in developing a coherent assessment and action plans. During E-MDT meetings, the geriatric psychiatrist routinely reviews psychiatric evaluation reports, as well as medical records provided by Adult Protective Service (APS) or other team members, and offers a professional opinion of the findings in those reports. The geriatric psychiatrist clarifies victims' diagnoses and their implications, describes the purpose of psychotropic medications and their possible side effects, and explains why victims may be using them.

The geriatric psychiatrist also listens for medical and psychological co-morbidities and is then able, when indicated and requested by the team, to coordinate care with the elder abuse victim's primary care physician.

In addition, during case discussions, a geriatric psychiatrist can provide insight into how an alleged abuser might react to various interventions proposed by the E-MDT, which may, in turn, have bearing on the final action plan developed. Other areas for which a geriatric psychiatrist may provide information include the psychiatric consequences of losing a loved one, stress from financial instability, and difficulty coping with age-related setbacks and illness.

In New York City, evaluations for clients' capacity to make specific decisions and the initial recommendations for guardianship are generally the role of Human Resources Administration-affiliated psychiatrists, but the E-MDT psychiatrist is available to offer a second opinion by interviewing the client directly, and during the meeting the geriatric psychiatrist is often called upon to interpret the findings of the APS psychiatric capacity evaluation.

The Manhattan and Finger Lakes geriatric psychiatrists also participate in case consultations and information-gathering activities, such as speaking with victims' psychiatric and medical care providers outside of E-MDT meetings; they are also members of a panel with the E-MDT Coordinator and others to review potential E-MDT cases. The actual time spent on these "offline" functions varies considerably but is greater if a direct client evaluation must be undertaken.

Occasionally the geriatric psychiatrist will present a mental health topic during the E-MDT meeting, for example, a review of post-traumatic stress disorder (PTSD) or schizophrenia in later life. These presentations are usually relevant to a case currently under discussion by the team and are intended to enhance the team's appreciation of the impact of the mental health issue on the victim or alleged abuser; such educational activities may also help guide intervention planning.

The geriatric psychiatrists typically spend about 5-10 hours a month on E-MDT and potential E-MDT cases, including twice-monthly attendance at E-MDT meetings plus case consultations and other activities outside of the regular meetings.

Confidentiality

Confidentiality restrictions have not impeded the ability of geriatric psychiatrists to participate in E-MDT activities. As a rule, the geriatric psychiatrist handles confidentiality of case records in team meetings under the same HIPAA rules that apply to any healthcare workplace in the U.S.

Along with other members of the team, both permanent and guest, geriatric psychiatrists must sign a confidentiality agreement to participate in the E-MDT meetings. As in all patient-care activities, cases and case documents are never discussed with anyone outside the E-MDT room, except in accordance with established medical guidelines about appropriate outreach to a medical practitioner or other care provider. As additional precautions, client names or other unique identifiers are never used in the meetings in the Manhattan E-MDT. Moreover, written notes are rarely taken by E-MDT representatives during E-MDT proceedings in order to avoid the possibility of an inadvertent breach of confidentiality and also to prevent any potential "discovery" of sensitive material that could be subpoenaed in legal proceedings.

The Value of the E-MDT to the Geriatric Psychiatrist

Participation of the geriatric psychiatrist on the E-MDT has been beneficial not only to the functioning of the team but to the professional development of the psychiatrist. Meaningful relationships and collaborations with other professionals and agencies have been established through the shared mission of the E-MDT. With APS in particular, the participating psychiatrists have achieved a greater appreciation of the functions and culture of this "social safety net" for older adult citizens, and they have without question achieved a greater comfort level in referring elder abuse cases to APS. The geriatric psychiatrists have also strengthened and deepened their ties with representatives of the many other disciplines, agencies and systems represented on the team; they have learned about services, supports, and interventions to address elder abuse cases that they would not otherwise have encountered in the course of their clinical work. This working knowledge allows the geriatric psychiatrists to educate their colleagues and students throughout their respective medical centers about elder abuse and potential interventions in their communities.

Onboarding Geriatric Psychiatrists onto Newly Forming or Established E-MDTs

As other communities seek to onboard geriatric psychiatrists onto newly forming or established E-MDTs, it has been suggested that the teams seek out fellows in training programs and encourage training directors of geriatric psychiatry fellowships to include E-MDT participation as part of their curriculum. Also, providing community psychiatrists working in publicly-funded clinics (such as county health programs) with training about elder abuse may prove to be beneficial in promoting awareness, in addition to widening the currently narrow pool of geriatric psychiatrists prepared to serve on E-MDTs.

General Observations and Comments

Geriatric psychiatrists bring a unique perspective to the E-MDTs by virtue of their dual experience in psychological and psychopharmacological medicine as well as knowledge of complicated geriatric medical syndromes. The geriatric psychiatrist is required to be familiar with social, familial and psychological norms as well as psychopathology in the elderly, the latter often touching on how a perpetrator might react to the team's action plan; and he or she must also be an expert in the specific area of geriatric psychopharmacology, in which therapeutic and side effects of commonly used medications differ substantially from those encountered with younger adults. Overall, geriatric psychiatrists are able to contribute expertise and judgment in the development of the team's action plan on a given case and assist the team in understanding the limitations and risks of intervention. Finally, the geriatric psychiatrist can help to resolve the intra-team tensions that can arise in any work group setting.

Summary

Giving the subspecialty of geriatric psychiatry “a seat at the table” has been a vital enhancement to the multi-disciplinary team approach to resolving society's most complex and egregious elder abuse cases. The EAPI Initiative helped to identify the specific advantages of engaging this service to enhance the understanding and the practical reach of the E-MDT members working on cases. For use on a larger scale, however, future E-MDTs should be prepared to consider the most efficient use of what is unfortunately a scarce resource, as the number of Board-Certified geriatric psychiatrists in the U.S. is very small. A plan for both financial compensation and optimal use of geriatric psychiatrists should be developed. E-MDTs may need to seek creative ways of sharing this critical resource consistent with their primary mission of preventing and intervening in complex cases of elder abuse.

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Reference Document 3: The Role of Civil Attorneys on Elder Abuse Multidisciplinary Teams



THE ROLE OF CIVIL ATTORNEYS ON ELDER ABUSE MULTIDISCIPLINARY TEAMS

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Letter to the Elder Justice Community

Elder mistreatment is increasingly common nationwide, with 1 in 10 older adults victimized in their own homes each year. The cases are heartbreaking and complex, requiring collaborative solutions.

In response, the NYC Elder Abuse Center (NYCEAC), housed within Weill Cornell Medicine's Division of Geriatrics and Palliative Medicine, has focused on developing and implementing multidisciplinary teams (MDTs). MDTs represent a highly collaborative endeavor, regularly bringing together professionals from diverse fields and systems to respond to cases of elder mistreatment.

In 2010, NYCEAC launched an MDT in Brooklyn, and then in Manhattan in 2013. Now, with funding from the NYC Department for the Aging, the NYS Office for the Aging (NYSOFA), the NYS Office of Victim Services (OVS) and the NYS Legislature, these teams will be sustained and new teams will be launched and sustained in the Bronx, Queens and Staten Island. (Other MDTs are also supported in NYS with funding from OVS, NYOFA, and the NYS Legislature.)

To plan for the NYC expansion, NYCEAC sought to understand more about the role of key core members. The integral role of the civil attorney on MDTs has not yet been defined. This has resulted in variation across teams regarding the degree and nature of civil attorney involvement. Thus, it seemed important at this juncture to more fully explore the role of the civil attorney on elder abuse MDTs.

NYCEAC asked Candace Heisler, JD to write this document. Formerly a prosecutor in San Francisco, she is a highly regarded elder justice educator and esteemed thought leader. This project required her to review literature, have many focused conversations, and then skillfully transform what she heard into this succinct, compelling, informed document. (See Methods section – Appendix 1.) We are grateful to her for this impressive and important work.

Critical to the success of this undertaking is that this document be informed by civil attorneys and other professionals involved with elder abuse work and teams. We are thankful to those participating for their significant contributions. (See Acknowledgments section – Appendix 2.) This document could not have been accomplished without the generous support of the NYC Department for the Aging.

NYCEAC looks forward to continuing to work with the many dedicated professionals participating on MDTs and welcomes those who will soon be joining the new teams. Together we will continue to reduce the suffering of elder abuse victims, increase their safety and well-being, and in so doing, not only improve lives, but save them.

Sincerely,

Risa Breckman
Executive Director
NYC Elder Abuse Center
July 2018



Introduction & Background

A collaborative multidisciplinary response,¹ including the creation and operation of multidisciplinary teams, has long been considered a tenet of elder abuse intervention.² Effectively addressing elder abuse cases requires multifaceted and time-consuming approaches especially when response systems are often fragmented and underfunded.³ Multidisciplinary responses can increase awareness of the problem of elder abuse; offer holistic case assessment; result in more creative and comprehensive case plans and community action; avoid the dumping of cases on a single agency or system; increase member understanding of the roles and limitations of disciplines and systems; avoid inappropriate or duplicative responses; reduce case recidivism and turf disputes between agencies; improve access to information and service options; and enhance relations and communications among individuals from diverse disciplines and systems.⁴

There is an increasing body of literature about the role and benefits of elder abuse multidisciplinary teams (MDTs). There is a spectrum of activities with which MDTs engage. Some educate members and suggest steps a member may wish to take in a case.⁵ Other MDTs engage in case review, client assessment, enhancing documentation, court testimony, and consultation/training. Those teams with more resources are able to draw on an array of forensic assets including participation of geriatricians, neuropsychologists or geropsychiatrists, licensed mental health providers, detectives, forensic accountants, victim advocates and others. Team members may coordinate joint home visits where physical assessments and documentation, such as capacity assessments, and/or restraining orders can be concurrently completed.⁶

Participants on MDTs typically include representatives from government and nonprofit organizations providing services and assistance to older adults, and on some teams, representatives from financial institutions participate. Membership varies across teams, but members can include prosecutors, civil attorneys, adult protective services, law enforcement, medical (e.g., geriatricians and emergency department physicians), mental health practitioners (e.g., psychiatrists, geropsychiatrists and

¹ In NYC, the term *Enhanced MDT* or *E-MDT* refers to teams that have been “enhanced” with the participation of geropsychiatrists and forensic accountants. Enhancements could, however, include other things, like the use of additional specialists or the use of technology, like telehealth. “MDT” is the general term most commonly used for various teams that serve as a forum for people from different disciplines to address elder abuse together. Thus, “MDT” will be used in this document for various MDT models including NYCs E-MDTs.


² Wolf, R.S. & Pillemer, K. (1994) “What’s New in Elder Abuse Programming? Four Bright Ideas”, *The Gerontologist*, 34(1), 126-129.

³ Navarro, A.E., Wilber, K.H., Yonashiro, J.Y., & Homeier, D.C. (2010) Do We Really Need Another Meeting? Lessons from the Los Angeles Elder Abuse Forensic Center, *The Gerontologist*, 50(5), Practice Concepts, 702-711.

⁴ Anetzberger, G.J. (2011) “The Evolution of a Multidisciplinary Response to Elder Abuse, *Marquette Elder’s Advisor*, 13(1), 107-128, at p. 126.

⁵ Navarro, A.E., Wilber, K.H., Yonashiro, J.Y., & Homeier, D.C. (2010) Do We Really Need Another Meeting? Lessons from the Los Angeles Elder Abuse Forensic Center, *The Gerontologist*, 50(5), Practice Concepts, 702-711.

⁶ Navarro, A.E., Wysong, J., DeLiema, M., Schwartz, E.L., Nichol, M.B., Wilber, K.H. (Aug, 2016) “Inside the Black Box: The Case Review Process of an Elder Abuse Forensic Center”, *The Gerontologist*, 56(4), 772-781.



geropsychologists), civil legal services, domestic violence and victim assistance programs, forensic accountants and others. Some teams also include representation from the Long Term Care Ombudsman Program.

As MDTs are developed there is interest in understanding the roles of various professionals. Weill Cornell Medicine's New York City Elder Abuse Center (NYCEAC), along with its partners the New York State Office for the Aging and Lifespan of Greater Rochester, has written documents describing the roles of geriatric psychiatrists and forensic accountants. Recently, NYCEAC has produced a document focusing on the role of local prosecutors on MDTs.

This document adds to the body of information about specialists on MDTs by focusing on the role of civil attorneys and how their participation can advance the work and goals of MDTs and meet the complex needs of older adults whose matters are discussed at team meetings. The document addresses four main topics – and throughout, quotes from interviewees appear in italics:

- 1. The Importance of the Civil Attorney on MDTs**
- 2. Roles and Responsibilities of the Civil Attorney on an MDT**
- 3. Background and Expertise Needed to Fulfill These Roles and Responsibilities**
- 4. Utilizing One or More Civil Attorneys to Perform These Roles and Responsibilities on an MDT**

MDTs are a promising and evolving intervention. To date, the role of the civil legal attorney on MDTs has not been explored anywhere in the country. MDTs operate in different ways in such areas as the types of civil attorneys on their teams, their civil law expertise, number of civil attorneys, if funding is provided for civil attorney participants, and expectations of civil attorney participants. To fill this gap, NYCEAC sought to provide guidance to MDTs across New York City seeking to recruit and engage with civil attorneys. It is hoped that the information herein will also assist teams across New York State and the United States grappling with these same questions.

1. The Importance of the Civil Attorney on MDTs

Civil attorneys are not always represented on MDTs. A 2003 survey of MDTs found nearly half lacked participation by critical disciplines, including civil attorneys.⁷ This finding is unfortunate as there are important reasons to include civil attorneys on MDTs, including:

- “Civil attorneys are in a unique position to help and to minimize the toll (of elder abuse, neglect, and financial exploitation) by serving as members of multidisciplinary teams.... In addition to serving clients individually, attorneys can leverage their outreach through joining multidisciplinary teams”.⁸
- Civil attorneys “may provide free legal services under the auspices of legal aid agencies or other programs to people who are over age 60 or who have low incomes, work in private law firms and charge for their services, work in the private sector, or work for Federal, State, or local governmental agencies.”⁹
- In addition, interview comments on the importance of including civil attorneys on MDTs included:
 - *“Attorneys are “heard” when non-lawyers are not.*
 - *Attorneys can challenge other attorneys to act when appropriate and can recognize cases where no legal action is possible.*
 - *Civil attorneys challenge prosecutors in ways that other team members cannot, at the attorney-to-attorney level, sometimes leading to a previously unknown and beneficial outcome for the older victim.*

A. MEETING THE COMPLEX CIVIL LEGAL NEEDS OF OLDER VICTIMS AT MDTs

MDTs focus on cases involving older victims with multiple, layered, and diverse needs, including legal assistance. “The strength of the M-Team—essentially its ability to assess and intervene effectively in individual elder abuse situations—comes from the expertise and resources of its members. This means having the right representation of disciplines and service systems on the team, members who have the knowledge, experience and position within their organization to participate meaningfully in case reviews and provide or secure needed services for case recommendation implementation.”¹⁰

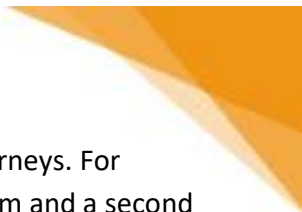
- *The MDT is the most useful meeting I attend for getting things done – the focus is on action.*

⁷ Teaster, P.B., Nerenberg, L., & Stansbury, K.L. (2003) A National Look at Elder Abuse Multidisciplinary Teams, *Journal of Elder Abuse & Neglect*, 15 (3/4), 91-107.

⁸ Morris, J.R. (2010) “The Bet Tzedek Legal Services Model: How a Legal Services Model Addresses Elder Abuse and Neglect, *Journal of Elder Abuse and Neglect*, 22(3/4), 275-280, at p. 276.

⁹ Stiegel LA. “Elder Abuse Victims’ Access to Justice: Roles of the Civil, Criminal, and Judicial Systems in Preventing, Detecting, and Remediating Elder Abuse”, in (X. Dong, Ed.) *Elder Abuse: Research, Practice and Policy*, Springer International Publishing, 2017, 343-362, at p. 34.

¹⁰ Anetzberger, G.J. (2017) “Elder Abuse Multidisciplinary Teams” (Ch. 19) in X. Dong (ed.) *Elder Abuse: Research, Practice and Policy*, Springer International Publishing, 417-432, at p. 423.



Left siloed, it is unlikely that programs will refer elder abuse cases to civil attorneys. For example, a survey of APS programs and administrators across the US and Guam and a second survey just of California APS found that APS programs were unlikely to refer cases to civil attorneys and especially to specific attorneys.¹¹ Reasons cited include possible conflicts of interest, a fear of showing a preference, potential liability if a “poor referral” is made, client confidentiality, and lack of attorneys with specific expertise.¹²

Involving civil attorneys in MDT discussions can help overcome such reluctance by clarifying the specific legal action that is needed, identifying potential no-cost legal services, pro bono or private attorneys with demonstrated expertise, and by marshalling the MDT process and member knowledge to develop case action steps APS and other members commit to follow.

- *MDTs help coordinate between civil and criminal justice systems and help social workers sort client needs and desires.*
- *APS and others do not understand trusts, title, etc., nor should they. By being on the team, they can bring in a document – the attorney can identify the legal issues and who should be contacted. Having a fundamental knowledge of how the local court operates, local practice, variations between counties, and attending court trainings, civil attorneys can use that knowledge to guide the team (e.g., the court in this county denies this kind of temporary order; this court wants this specific information before it will grant that relief.)*

The decision to refer to a civil attorney becomes a group decision rather than one made by an individual worker. And because a natural outcome of MDTs is trust of partner disciplines and development of strong relationships, there is an increased willingness to follow through on recommended action steps.

By themselves legal services are not enough to meet all of a client’s needs. The MDT provides access to other professionals. All members have direct contact with other team members so a civil attorney can call a police detective.

In addition, some legal service programs in New York City and elsewhere have added social workers and other providers to their staff creating an “interdisciplinary team within a law firm.”¹³ The benefit to the MDT is the ability to provide older victims of abuse “wrap around” rather than fragmented services.

¹¹ Health Benefits ABCs (March 2015) [2015 APS and Civil Litigation Survey—National](#), Prepared for California Advocates for Nursing Home Reform (CANHR) and in collaboration with National Adult Protective Services Association (NAPSA); Health Benefits ABCs (March 2015) [2015 APS and Civil Litigation Survey—California](#), Prepared for California Advocates for Nursing Home Reform (CANHR) and in collaboration with National Adult Protective Services Association (NAPSA).

¹² Health Benefits ABCs (March 2015) [2015 APS and Civil Litigation Survey—California](#), Prepared for California Advocates for Nursing Home Reform (CANHR) and in collaboration with National Adult Protective Services Association (NAPSA), at p. 6.

¹³ Morris, J.R. (2010) “The Bet Tzedek Legal Services Model: How a Legal Services Model Addresses Elder Abuse and Neglect, *Journal of Elder Abuse and Neglect*, 22(3/4), 275-280, at p. 279-280.



B. TYPES OF CIVIL ATTORNEYS PARTICIPATING ON MDTs

Some MDTs are primarily focused on building criminal cases and addressing a few civil issues, most often the victim’s need for a guardianship/conservatorship. Other teams, like those in New York City, handle “complex cases” which may include criminal cases but even more often raise multiple civil legal questions. The interviews conducted for this document revealed the types of civil attorneys utilized on MDTs and the variety of approaches to involving them.

- **Civil Attorneys from Governmental Agencies**

Some teams only include civil attorneys who work in a governmental agency; others include attorneys from governmental agencies and non-profit legal services, while a third group has added private civil attorneys to participating civil attorneys. “Some teams deny membership to certain groups. To avoid potential conflicts of interest, for example, some do not permit professionals in private practice or proprietary organizations to join. Others require these entities to sign statements promising that they will not solicit for paid services clients whose cases are discussed, or, in any way, use their participation for financial gain. A few only allow public agencies to join.¹⁴

Teams that only included governmental attorneys on their MDT membership had strong reasons for their choice including avoiding any appearance of favoritism when including attorneys who represent individual clients, negative history with civil attorneys in private practice in their community, and experiences with private attorneys who have used their role on the team to tell governmental officials how to discharge their duties accompanied by direct or more subtle threats or actions to expose the agencies if they did not conform. Proponents also believe that if all members are part of the same governmental entity there is legal governmental immunity for actions and greater ability to share otherwise confidential information.

Some of those interviewed had very different opinions and expressed concerns that governmental attorneys, as representatives of their employing agencies, are expected to protect the agency and avoid potential situations that could result in increased staff workload or liability. Some opined that governmental attorneys often are not expert in the wide array of possible civil causes of action and laws that can assist a victim of elder abuse, that they will naturally focus on remedies they can effect such as guardianship even when less restrictive options might be otherwise available, and may decline to review cases beyond their expertise or suggest civil options which turn out to be inappropriate or ineffective for a victim.

¹⁴ Nerenberg, L. (September 2003) “Multidisciplinary Elder Abuse Prevention Teams: A New Generation”, National Committee for the Prevention of Elder Abuse, at p. 6, available at http://www.vdh.virginia.gov/content/uploads/sites/18/2016/04/EldAbs_complete.pdf



- **Civil Attorneys from Nonprofit Legal Services**


Considerations when civil attorneys are from a non-profit legal services program include recognition that their sources of funding may dictate and limit what the agency can do, the kinds of cases they can take, and who they are authorized to serve, most often low income elders. Many of their eligibility criteria are found in the Older Americans Act, Title IIIB, Supportive Services Program. They typically cannot represent older persons who have more financial resources than their eligibility threshold even if the person cannot afford to hire his or her private attorney and those with resources to hire their own counsel as well as older adults who do not have decision-making capacity to enter into an attorney-client relationship.

Services available through legal services programs across the US are highly variable as well. Some offices handle a wide array of case types with specialized teams each with particular expertise and offer both legal and supportive social services to clients. More commonly, legal services civil attorneys are generalists who handle certain kinds of matters. Some have developed referral panels of “vetted” attorneys for older adults who do not qualify for services or need legal assistance on matters not handled by the legal services program while others refer older adults to their local Bar Association.

- **Civil Attorneys in Private Practice**

There were differing opinions about inclusion of civil attorneys in private practice on MDTs. Those interviewed highlighted the variability across teams on the availability of civil attorneys able to handle a range of common issues and had found that certain kinds of cases were beyond the expertise of governmental attorneys or nonprofit legal services programs. One such area is guardianship since New York State does not have a public guardianship system. In some communities guardianship cases on behalf of low-income older adults are handled by a non-profit legal services provider while in others there are no legal services providers available to bring guardianship proceedings. But including attorneys in private practice on MDTs may be controversial. Many of those interviewed were concerned with possible private practice attorney expectations that participation on the MDT will lead to client referrals for older adults who are able to pay attorney fees generating “high dollar value” cases, the appearance that the MDT was or MDT members were favoring a particular attorney over others, or that the agency could be sued if the client was dissatisfied with the private attorney’s representation.

Notwithstanding their differences, many MDTs have some civil legal representation. Even teams focused on enhancing prosecution include members able to provide some limited civil legal expertise. There were many comments about the critical need to include civil attorneys on MDTs. “As stated during the Elder Justice Coordinating Council meeting and at other times,



‘we can’t prosecute our way out of this.’ Efforts to support prosecution need to be complemented by efforts to support involvement of the civil justice system.”¹⁵

Many of those interviewed highlighted the need to involve civil attorneys. Comments included:

- *Historically, teams focused on criminal cases, but most cases were not criminal or even if they were, the victim did not want the case in the criminal justice system or even if the victim did, the criminal justice system could not help the victim regain their life. And, elder abuse agencies like Adult Protective Services or Area Agencies on Aging and health care knew very little about legal rights and remedies, so they were encountering civil legal situations and not recognizing them.*
- *Initially our team was very hesitant to include civil attorneys out of concern they would participate for financial gain for themselves or their firms. For the first few meetings civil attorneys were not invited. It quickly became evident that cases referred to the MDT were not criminal cases, and some did not need conservatorships but the elder needed a civil attorney. A significant percentage of cases have civil aspects. (The team has since invited a comprehensive civil legal services program to join the MDT.)*

Team members, including criminal justice agency professionals, know little about legal rights and remedies, so many civil legal situations go unrecognized. A significant percentage of cases have civil aspects and without civil attorney involvement, critical civil remedies are not explored.

- *If there are no civil attorneys on team, the team loses valuable expertise: it cannot handle/analyze certain kinds of cases; the team over focuses on those remedies team members can provide with an over reliance on guardianship/conservatorship; members speak beyond their expertise; and members do not bring cases beyond team’s knowledge.*

Many remedies available through civil law are not available through a criminal prosecution. Teams need civil expertise to fully identify and utilize effective remedies.

- *Many things civil elder law attorneys do as bread and butter can be life changing for victimized elders.*

The differing perspectives identified through the interviews for this document highlight the careful planning that should be undertaken when deciding how to include civil attorneys in MDTs. The solution will vary across communities and regions so what works in a well-resourced urban area may not make sense in a rural upstate area. A community must explore what local civil legal services exist, specific expertise of those attorneys in their practice area and about elder abuse, who they can serve, their willingness and availability to participate in an MDT, and the kinds of civil legal matters that commonly arise in complex elder abuse situations. If there are gaps, a community should consider what other sources of critical civil legal expertise may be helpful.

¹⁵ Stiegel LA. White paper on the judicial system for the elder justice coordinating council, [at p. 3](#). Prepared for the Elder Justice Coordinating Council meeting, Washington DC, 11 Oct 2012, available at http://www.americanbar.org/groups/law_aging/resources/elder_abuse.html

2. Roles and Responsibilities of the Civil Attorney on an MDT


The roles of the civil attorney fall into two categories: 1) at MDT meetings; and 2) case referrals.

- 1. MDT Meetings:** At the MDT meeting the attorney participates in case consultations by discussing if there are potential civil actions and remedies, reviewing documents, identifying additional information that may be needed to decide how to proceed, answering questions about the law and legal processes, helping develop action steps for the case, and suggesting the legal expertise or type of counsel needed to handle the case. The civil attorney may or may not have an expectation of receiving a case referral, depending on MDT practices. In this function the attorney is part of the MDT and typically does not have a client. In some situations the civil attorney may already represent the older adult or a family member in which case the attorney can bring a case to the MDT for evaluation but must have client permission to discuss the case.
- 2. Case Referrals:** The second function is handling case referrals in order to effectuate recommended civil legal action steps from the MDT. In this function the civil attorney has a client, usually the older adult who has been victimized, but in some cases the attorney may represent the agency applying for guardianship/conservatorship or the guardian, successor trustee, or non-offending family member seeking legal representation. In order for an attorney to represent a client, the attorney must assure that the potential client has sufficient capacity to enter into a legal representation agreement and direct counsel. If a legal services provider, the attorney must also assess if the client meets eligibility criteria such as age, income, and type of legal claim.

It is important that the MDT determine and effectively communicate their expectations about the role and involvement of civil attorneys who are invited to participate on the MDT. Currently this question is largely unexplored. Every MDT is advised to independently define the role of civil attorneys. Are civil attorneys limited to providing general legal advice and educating team members on the law or do they involve themselves in actual cases and offer legal representation? Or is it both?

In addition, the team should decide in advance how it will handle case referrals. Important questions to consider include:

- Once an action plan is developed that includes a recommended civil legal response, what happens?
- How is the legal provider identified?
- Who contacts the older adult—the legal services provider or the agency that brought the case to the MDT?
- Who is the client—is it the MDT or the older victim of abuse?

- 
- Does the referring agency “recommend” one attorney to the older adult or have the older client choose from a small list of “vetted” attorneys?
 - *If the latter, how are attorneys “vetted”?*
 - Are practices different if client has the financial resources to hire his or her own attorney or can pay a reduced fee?
 - When are pro bono private attorneys recommended?
 - *What is the source and expertise of pro bono lawyers?*

Those interviewed expressed concern that a direct referral from the MDT to a particular attorney could give rise to civil liability if the elder is dissatisfied with the representation or if the civil defendant prevails. Most preferred having the MDT member agency that presented the case contact the client to see if the person is willing to accept legal services. If consent is given, some felt the older adult should initiate contact with the legal services provider and arrange to meet with the attorney. Others were willing to have the attorney contact the consenting older client to determine if an attorney-client relationship could and would be developed. In a few instances the MDT Coordinator has contacted the older victim and arranged for a designated civil legal provider to contact the client.

Some legal services providers have developed vetted lists of attorneys with specific expertise. In situations in which a conflict of interest has arisen, when the legal services provider cannot meet the older client’s legal needs, or the older adult is not eligible for legal services program services, the older adult is offered a referral list or a list of at least three attorneys with expertise to handle the legal issues. None of those interviewed referred the older person to just one attorney. Some of those interviewed did not refer individuals to specific attorneys or legal services providers but only to the local bar association lawyer referral panels.



3. Background and Expertise Needed to Fulfill These Roles and Responsibilities

A. CRITICAL CIVIL ATTORNEY EXPERTISE FOR MDTs

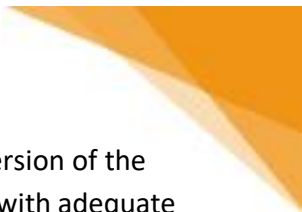
There was considerable agreement on the types of civil legal expertise most commonly needed in MDT cases. Even teams that are focused on developing criminal cases include civil attorneys who can handle guardianship/conservatorship¹⁶ matters. The teams that focused on criminal case building used member governmental agency attorneys for such cases.

Those interviewed frequently mentioned the need to have a civil attorney on the team who understands estate planning, capacity, and the courts, and who can help people locate counsel (e.g., successor trustee or non-offending child).

There was consensus that a wide array of civil case matters consistently arise at the MDT. Most involve lower-income older adults who can be served by legal services programs. Such matters include:

- Guardianships/conservatorships
- Housing issues, including landlord-tenant rights, evictions, avoiding homelessness, foreclosures
- Family law, including orders of protection and remotely accessing orders of protection, divorce, and annulment, spousal support
- State and federal benefits
- Health law including health care proxies, SSA appointment of representatives, advance directives, Medicaid asset protection, powers of attorney for health care, and “look back” periods
- Paid homecare issues including receiving adequate hours paid for by Medicaid, dealing with abusive, neglectful, or exploitative caregivers, and dealing with long term care vendors
- Property issues, including quieting title, recovery of property, deeds, property claims
- Consumer Protection, including restoration/repair of credit, work by unlicensed contractors, failure to deliver promised services, submitting regulatory reports
- Contracts, including failure to perform, unconscionable terms, return of payments, and contracts for long term care services
- Wills, including changing, voiding, or replacing following exploitation or abuse
- Patient’s rights, including right to refuse treatment, involuntary mental health interventions, and nursing home residents’ rights
- Court procedures and practices, emergency or bridging actions to protect a client while longer and slower proceedings are underway
- Capacity
- Immigration matters

¹⁶ Different states use the terms guardianship and conservatorship to mean the same thing—court appointment of a surrogate to manage certain aspects of an older or vulnerable adult’s life such as financial matters, health care decisions, etc. This document will use these terms interchangeably to refer to any such court authorization.



Less frequently mentioned were civil lawsuits for elder abuse, theft and conversion of the elder's assets, though such matters do arise and often involve elderly victims with adequate assets to hire their own counsel.

The interviews disclosed that in addition to subject matter expertise, civil attorneys advise on how to protect a case, including sources, evidence and information, the meaning of legal terminology, changes in law and procedure, and the practices and procedures of individual courts. They educate team members about their misconceptions about the law and available remedies. Civil attorneys help the MDT members understand legal procedures, rules, and due process requirements. They assess whether a proposed civil legal action is appropriate for the elder's needs and if better alternatives exist to protect the elder. They commonly review civil documents including powers of attorney, property documents, and guardianships and advise on the legal duties of fiduciaries and penalties for breaches of duty.

4. Utilizing One or More Civil Attorneys to Perform These Roles and Responsibilities on an MDT

“The need to be familiar with elder abuse laws may appear obvious, but some projects found that the attorneys brought on to help their clients were only experienced in one or two areas of the law (e.g., lending abuse or domestic violence) and knew little about other areas of elder abuse law.”¹⁷ Prosecutors, private attorneys and nonprofit attorneys all play unique and valuable roles in the legal systems. Collaboration and coordination lead to fewer missteps.

The breadth of civil legal issues is daunting making it is unlikely that any one attorney can know everything. Many legal issues recur while others arise less frequently. Meeting civil legal requires of older adults requires the consistent involvement of civil attorneys and because of the varied economic resources of those older adults, no single approach to providing access to legal services can be adequate. In some communities non-profit legal services programs may be small or not have funds to volunteer time to meet the needs of the team at all or without compensation. In short, some MDTs are adequately served by non-profit legal service programs while others will require the involvement of private pro bono or retained attorneys.

Interview comments mirrored these points. Many stated that it was unlikely that a single person would be expert in all of the legal issues raised at MDT meetings. Some pointed out the benefits of engaging with multiple civil attorneys with varied expertise. Some highlighted the benefits of having both legal services and private attorneys participate since each serves a different segment of the older population and bring different expertise.


- *It is helpful to have more than one civil attorney on the MDT with different expertise and it is valuable to get both legal services and a private attorney perspective. Having participation of both may change options and offer broader expertise.*

Legal service programs assist lower income older adults and are expert at issues their clients often experience while private attorneys more often deal with estate planning and issues related to personal wealth. The value of having both on an MDT is a broader perspective and expertise and identification of different civil options. It was also highlighted that because New York does not have a public guardian system, and because low income guardianship services are not available throughout the state,¹⁸ it often falls to private attorneys to apply for guardianship protections. Some teams may only be able to obtain help with guardianship issues and laws by engaging with private attorneys.

Having MDTs with attorney members from a blend of non-profit, governmental agencies, and appropriate private attorneys offers flexibility in meeting the needs of older victims whose matters are brought to the MDT. In some communities, non-profits may be small or not have

¹⁷ Reeves, S. & Wysong, J. (2010) “Strategies to Address Financial Abuse”, *Journal of Elder Abuse and Neglect*, 22 (3/4), 328-334, at p. 331.

¹⁸ In New York City if no one else is available to serve as guardian, Adult Protective Services will petition for guardianship and a government attorney from the Human Resource Administration’s Office of Legal Affairs will approve or deny the APS petition and if they approve will handle the court proceedings. Both APS and the Office of Legal Affairs participate in the Manhattan and Brooklyn MDT meetings.



funds to volunteer time to meet all of team’s needs without compensation. Non-profits may be able to fund additional work on behalf of older clients through grants, fellowships in which attorneys are funded and placed in non-profit organizations to support additional legal services, and recruitment of pro bono attorneys to accept cases in return for continuing legal education (CLE) credits.

Those interviewed agreed that there is no single way to ensure that critical civil legal expertise is available to every team. The process will include surveying local sources of civil counsel including non-profit legal services, governmental agency and pro-bono attorneys and firms, and local bar and elder law associations to identify what already exists. Local law schools may have or be willing to create legal clinics assist attorneys working with MDTs in interviewing clients and witnesses, locating documents, and preparing cases. Some communities have sought grants and explored innovative programs like the Equal Justice Works/AmeriCorp Elder Justice fellowships to help fund MDT work.¹⁹ Some teams may recruit civil attorneys to participate in every MDT or occasionally when cases with special or unique legal issues are reviewed. It may also be worth considering having teams consult with existing teams that have civil attorney involvement if local attorneys cannot be located to serve on the MDT. Such an option may be especially helpful in rural communities or in areas that are developing their MDTs.

Conclusion

Cases presented to MDTs are complex and multifaceted, often involving clients with differing levels of capacity with intersecting criminal, civil, and social services issues. Teams work to craft effective action plans which promote the safety, protection, and wellbeing of older adults who have been victimized. To work effectively, MDTs share a need to engage with civil attorneys to assess and consult on a wide array of legal matters, educate members on legal remedies, court practices and legal updates, and handle or refer cases to appropriate legal services providers who may be based in governmental agencies, non-profit legal services programs, and private law firms. As one interviewee stated, “Legal services programs have a unique opportunity to prevent and remedy elder abuse.” That is equally true of civil attorneys from all types of practice settings who participate on MDTs.

¹⁹ See <http://www.equaljusticeworks.org/node/90280>.

Appendices





Appendix 1

METHODS

NYCEAC contracted with Candace Heisler, JD, an elder justice educator and thought leader, to conduct research for and write this document. The research involved reviewing literature and conducting interviews as described below.

NYCEAC's Executive Director, Risa Breckman, provided information on the organization's MDTs, including the history of its existing teams, differences across boroughs, possible difficulties in obtaining consistent participation of civil attorneys across teams, methods used to recruit civil attorney members, procedures to protect confidentiality and anticipate and prepare for attorney conflicts of interest, and the goal of providing guidance to new teams as they are formed.

Then, key topics the document would address were formulated:

1. Importance of the Civil Attorney on MDTs
2. Roles and Responsibilities of the Civil Attorney on an MDT
3. Background and Expertise Needed to Fulfill These Roles and Responsibilities
4. Utilizing One or More Civil Attorneys to Perform These Roles and Responsibilities on an MDT

Interviews were conducted with current and former members of the MDTs in Manhattan, Brooklyn, and Westchester, and Finger Lakes region, as well as members of MDTs operating within Forensic Centers in California and Texas. Interviews were also conducted with NYCEAC and Lifespan staff. And finally, interviews were conducted with national leaders who had worked with, studied, or had expertise with MDTs with a range of resources. (A list of those interviewed is in the Acknowledgements – Appendix 2.) Everyone who was interviewed was told that their names would be listed in this document but that their specific comments would not be attributed to them.

Three sets of questions were developed for these interviews: one for New York City Elder Abuse Center and key Lifespan staff and one for those attorneys and experts who were interviewed for this project. These interviews mostly were conducted by telephone with a few conducted in-person. Interviews typically lasted 45 to 60 minutes. Another set of questions were asked of NYCEAC's Manhattan and Brooklyn team members. Each lasted 30 minutes and were conducted at the end of a regularly scheduled MDT meeting.

- A. The following were the questions asked of NYCEAC's Brooklyn and Manhattan team members. Because of the number of participants and time constraints, only three questions were asked:
 1. What are the benefits and strengths of having civil attorneys on the E-MDT?
 2. What are the weaknesses?
 3. There are many civil legal issues that intersect with elder abuse. One attorney likely won't have knowledge in all areas. What are the areas of law that a civil legal attorney serving on a team needs to know to be most helpful to MDT discussions? How does a team obtain information on other topics?



- B.** The following were the questions asked of NYCEAC and key Lifespan staff:
1. What is the role of civil legal attorneys on the team? What should it be?
 2. What are the current strengths of the civil legal representative on the team?
Weaknesses?
 3. Should more than one civil legal attorney serve on a team with the role of providing civil legal expertise? If so, under what circumstances should there be more than one of these attorneys?
 4. How should civil legal attorneys be recruited? What kind of a commitment is needed? What if any agencies or organizations should be consulted in selecting a civil legal representative?
 5. What should be done if the civil legal attorney cannot attend a meeting? Are there any procedures now in place for such an eventuality? What recommendations do you have?
 6. What specific expertise is needed from the civil legal attorney representative?
 7. Can you envision a situation in which the civil attorney could have a real or perceived conflict of interest in serving on the team? What would that look like? How could that problem be anticipated? Resolved?
 8. Does the civil legal attorney have a client when serving on the team?
 9. Are there benefits to paying the civil legal attorney for participating on the team? What does the payment cover? (What are you paying the civil legal person to do?)
 10. Would the civil legal person ever represent the subject of the team meeting (i.e., elder or vulnerable adult)? In what situations? Recommendations?
 11. Could that representation result in a real or perceived conflict of interest? Could the Team incur any liability if the representation resulted in a lawsuit for malpractice or negligent handling of a case?
- C.** The following were the questions asked of the attorneys and experts:
1. What is the role of civil legal attorneys on the team? What should it be?
 2. How should civil legal attorneys be recruited? What kind of a commitment is needed? What if any agencies or organizations should be consulted in selecting a civil legal representative?
 3. What specific expertise is needed from the civil legal attorney representative?
 4. Can you envision a situation in which the civil attorney could have a real or perceived conflict of interest in serving on the team? What would that look like? How could that problem be anticipated? Resolved?
 5. Does the civil legal attorney have a client when serving on the team?
 6. Should the civil attorney or his/her agency be paid for participating on the team? What does the payment cover?



7. Would the civil legal person ever represent the subject of the team meeting (i.e., elder or dependent adult)? In what situations?
8. Could that representation result in a real or perceived conflict of interest? Could the Team incur any liability if the representation resulted in a lawsuit for malpractice or negligent handling of a case?
9. Any recommendations to address question 8?
10. Any other ideas or thoughts?



Appendix 2


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Head Attorney, Office of the Public Administrator/Public Guardian, San Francisco, CA; Member, San Francisco Forensic Center Multidisciplinary Team
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Former Program Manager, Los Angeles Elder Abuse Forensic Center Multidisciplinary Team

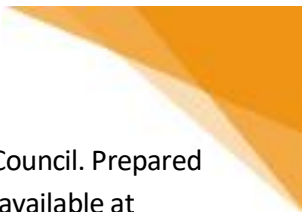
In addition, thank you to:

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Appendix 3

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Appendix 4

SELECTED WEBSITES

- American Bar Association Commission on Law and Aging
https://www.americanbar.org/groups/law_aging.html
- Center of Excellence in Elder Abuse and Neglect, University of California at Irvine
<http://www.centeronelderabuse.org/EAFC.asp>
- National Academy of Elder Law Attorneys (NAELA)
www.naela.org
- National Center on Elder Abuse (NCEA)
<https://ncea.ad.gov/>
- National Center on Law and Elder Rights (NCLER)
<https://ncler.ad.gov/>
- National Clearinghouse on Abuse in Later Life (NCALL) — See “collaborative effort”
www.ncall.us
- NYC Elder Abuse Center
<https://nyceac.org/clinical-services/mdts/>
- Secure Old Age (at University of Southern California), Keck School of Medicine (Research and publications on Health, Economic, and Social Services for Older Adults)
<http://secureoldage.usc.edu/>
- US Department of Justice Elder Justice Initiative
www.justice.gov/elderjustice/
- US Department of Health and Human Services, Administration for Community Living (Older Americans Act, Title IIIB)
<https://www.ad.gov/search/node?keys=OAA%2C+Title+IIIB>



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Reference Document 4: The Role of Local Prosecutors on Elder Abuse Multidisciplinary Teams



THE ROLE OF LOCAL PROSECUTORS ON ELDER ABUSE MULTIDISCIPLINARY TEAMS

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Letter to the Elder Justice Community

Elder mistreatment is increasingly common nationwide, with 1 in 10 older adults victimized in their own homes each year. The cases are heartbreaking and complex, requiring collaborative solutions.

In response, the NYC Elder Abuse Center (NYCEAC), housed within Weill Cornell Medicine's Division of Geriatrics and Palliative Medicine, has focused on developing and implementing multidisciplinary teams (MDTs). MDTs represent a highly collaborative endeavor, regularly bringing together professionals from diverse fields and systems to respond to cases of elder mistreatment.

In 2010, NYCEAC launched an MDT in Brooklyn, and then in Manhattan in 2013. Now, with funding from the NYC Department for the Aging, the NYS Office for the Aging (NYSOFA), the NYS Office of Victim Services (OVS) and the NYS Legislature, these teams will be sustained and new teams will be launched and sustained in the Bronx, Queens and Staten Island. (Other MDTs are also supported in NYS with funding from OVS, NYSOFA, and the NYS Legislature.)

To plan for the NYC expansion, NYCEAC sought to understand more about the role of key core members. The integral role of the local prosecutor on MDTs has not yet been defined. This has resulted in variation across teams regarding the degree and nature of prosecutor involvement. Thus, it seemed important at this juncture to more fully explore the role of the local prosecutor on elder abuse MDTs.

NYCEAC asked Marie-Therese Connolly to help in writing this document. An attorney, she began her work on elder abuse at the US Department of Justice and is deeply knowledgeable about elder abuse, prosecutors, and teams. A long-time elder justice advocate, she is highly regarded for her work, as evidenced by having received a MacArthur "Genius" Award for her achievements. This project has benefited mightily from her participation. We are grateful that she contributed her smarts, talents, and time to it.

Critical to the success of this undertaking is that those involved with elder abuse work and teams inform the document. We are grateful that the many people we asked to participate generously did so. (See Acknowledgments section - Appendix 4.) This document could not have been accomplished without the generous support of the NYC Department for the Aging.

NYCEAC looks forward to continuing to work with the many dedicated professionals participating on MDTs and welcomes those who will soon be joining the new teams. Together we will continue to reduce the suffering of elder abuse victims, increase their safety and well-being, and in so doing, not only improve lives, but save them.

Sincerely,

Risa Breckman
Executive Director
NYC Elder Abuse Center
July 2018



Introduction & Background

There is consensus, both in the literature and among leading experts, that multidisciplinary teams (MDTs) are a critical asset in addressing elder abuse and that prosecutors play a vital role on them. New York City’s Enhanced or E-MDTs¹ are no exception. (For consistency, “MDT” will be used herein. See *Definitions*, Appendix 1.)

This document examines the role of NYC prosecutors on elder abuse MDTs. It is a rich and challenging many-layered role. The prosecutors don’t only prosecute elder abuse cases. They also attend meetings, advance their colleagues’ understanding of the criminal justice system, train community members, promote the accountability of individuals and systems in addressing elder abuse, learn about other systems’ resources to assist elder abuse victims, and collaborate with other team members.

The core mission of any MDT is to respond to elder abuse in a way that advances the well-being of and justice for the older persons whose interests the team exists to serve. (They might be referred to as clients, victims, patients, residents or survivors, depending on the system.)

Each team member has a distinct professional identity accompanied by differing expertise, goals, rules, authorities, language and culture. Prosecutors are public officials who represent “The People” in pursuing cases against those alleged to have violated the law. They initiate and direct criminal investigations, issue subpoenas, present cases to grand juries, file formal criminal charges, plea bargain, handle trials, and make recommendations regarding sentencing. Elder abuse prosecutors also often work with detectives, paralegals, forensic accountants, social workers, victim advocates and other professionals. Specific roles and procedures differ from office to office. (See Appendix 6 for descriptions by the NYC DA’s offices about their handling of elder abuse cases.)

In the more than two-dozen interviews conducted for this project, MDT members agreed that collaborating among individuals and systems to best serve older victims’ interests is a work-in-progress and hard work, but also productive and rewarding.

Team members learn much from being on teams—about other professions, agencies, offices and disciplines, about elder abuse, about teamwork, and about navigating different perspectives in trying to do the right thing in these very complex and difficult cases. They also come away seeing new dimensions to their own work.

¹ In New York State and New York City, the term *Enhanced MDT* or *E-MDT* refers to teams that have been “enhanced” with the participation of specialists, including geriatric psychiatrists, forensic accountants and /or legal services. Enhancements could, however, include other things, like the use of additional specialists or the use of technology, like telehealth. “MDT” is the general term most commonly used for various teams that serve as a forum for people from different disciplines to address elder abuse together. Thus, “MDT” will be used in this document for various MDT models, including the NYC Elder Abuse Center’s E-MDTs.



Said another way, being on an MDT changes the people on it and how they respond to elder abuse, both in individual cases and in how their offices and systems respond more broadly. For example, research shows that prosecutors on MDTs prosecute more elder abuse cases. (Navarro, 2012)

One of the most valuable aspects of being on an MDT is harder to articulate. It has to do with asking new kinds of questions, learning about new organizations, disciplines and systems, and figuring out how they can mesh together toward a common goal.

The purpose of this document is to examine the roles and engagement of local prosecutors on MDTs to inform new teams as they form and existing teams as they evolve. Its contents are based primarily on interviews with elder abuse prosecutors, team coordinators, and other team members. (See *Methods*, Appendix 2.) On many matters those interviewed agreed, but on some their views diverged (as on any good team).

The document is organized by theme with illustrative bullet points and in some instances, quotes that appear in italics. (Points relevant to more than one theme may appear more than once so each section can stand alone, even though this causes a bit of redundancy.)

Interviewees expressed both benefits and concerns about prosecutors' roles on MDTs, but unanimously said that the benefits far outweighed the concerns, and that the concerns could be navigated with thoughtful attention and creation of procedures for collaboration. Prosecutors who did not yet have access to an MDT looked forward to joining one in the belief that doing so would enhance their ability to prosecute elder abuse, identify cases they might not otherwise hear about, and expand the resources available to them to help victims.

While this document focuses on NYC, its themes likely will resonate around New York State and the country even though resources and challenges will differ from place to place. In addition, although state and federal prosecution, or civil and administrative actions may also be appropriate or critical avenues of redress in elder abuse cases, they are beyond the scope of this document.

This document is not intended to be a primer on what prosecutors, coordinators, or MDTs *should* do. Rather, it is intended to provoke thought and conversation—a first compilation of ideas and opinions about a relatively new kind of entity that is still evolving. Like MDTs, the role of the MDT Coordinator is also still young and evolving. Many MDT members are still learning about the criminal justice system. And the way prosecutors handle elder abuse cases and embrace their roles on these teams is evolving too.

No doubt in addressing one set of questions, new ones will surface. This document is intended to be a starting point for discussion about what works best for each team, its members, its cases and the people it serves.



1. The Prosecutor Perspective

A. THE VALUE OF BEING ON AN MDT

The prosecutors interviewed for this project cited numerous benefits to being on MDTs, including: (1) Access to experts and key decision makers, (2) Assistance for victims, (3) Education & raised awareness, (4) Relationships, (5) Save time, and (6) Strengthen and illuminate cases.

Access to Experts and Key Decision Makers

- Where medical professionals are part of MDTs, joining a team gives prosecutors ready access to physicians and other medical experts (for example, specialists in geriatrics, geriatric psychiatry, neuropsychology and emergency medicine) who can conduct or arrange for medical and capacity assessments, review medical records, discuss complex health and cognitive issues that arise in elder abuse cases, and serve as expert witnesses.
 - *One of the biggest challenges is establishing whether the victim had capacity at the time the fraud was committed. Having access to a geriatric psychiatrist is key. I use the MDT doctors in cases where someone with cognitive impairment gave permission to someone else to write a check.*
- MDTs give prosecutors ready access to a forensic accountant (for teams that include such a specialist) whose analysis is also often critical in financial exploitation cases.
 - *Having access to a forensic accountant makes our jobs easier. They give us concrete evidence and allow us to bring many more cases.*
- Access to such experts dramatically saves both time and the cost of expert fees.
 - *I often call the MDT doctors for advice or to run scenarios by them.*
 - *Doctors and prosecutors have a difficult relationship. Doctors aren't known for being easy to get hold of or get information from, let alone getting them to testify. They're often afraid, but don't want to admit it. The MDT doctors are great. And they can talk to other doctors involved in our cases.*
- Prosecutors noted that having key decision makers from agencies present for team discussions increased their efficiency. (DeLiema 2016)
 - *All these agencies are available to do good things. But they can be hard to track down. When you go to the meeting, everyone's gonna be there. They're gonna be in the room.*
- Prosecutors also benefited from the expertise of other team members, for example in aging services, APS, civil law, emergency housing, guardianship, victim assistance, and other subjects and entities potentially relevant to their cases.
 - *The Office on Aging is the most amazing office. They always know something—they've provided Meals on Wheels or done an assessment. Or some other agency—APS, Legal Aid or a bank—has some little piece to the puzzle that it's important for me to know. When you only get half the story, it doesn't make sense. As a prosecutor, I want to know everything.*




Assistance for Victims

- Being on MDTs introduces and connects prosecutors to a range of resources to help victims that they might previously not have known about or that they had difficulty accessing.
 - *The social workers and caseworkers on the team are so savvy and work so hard. I'm like, how do we get the son out and mom on the lease? They know how to navigate the housing authority, which is really complex. I'm a prosecutor, not a social worker.*
- By being on MDTs, prosecutors can learn information that allow them to pursue a case in a way that is more attuned to the victim's wishes and has the potential to change a victim's life or circumstances for the better. For example, a prosecutor might seek drug rehab or mental health treatment for a defendant or restitution for a victim.
 - *It's always helpful for victims when more diverse and experienced teams address their needs.*
- Access to expanded options sometimes results in reluctant victims changing their outlook on prosecution.
 - *Working with others on the MDT can mean that victims feel a little less stress about going forward and are more likely to testify. Having a coordinated response is best for victims.*
- Being on teams may allow ADAs to take a more victim-centered approach to interventions by the criminal justice system in cases of elder abuse.
 - *A prosecutor may have a good case but decide on a course other than prosecution if that's better for the victim, as in situations where the stress of prosecution would be too hard on a frail elder.*
 - *If you're arresting a caregiver, you may need help from others, because that caregiver was giving the victim her meds, and feeding her.*

Education and Raised Awareness

- By being on MDTs, prosecutors gain an improved understanding of how other agencies and specialists work, for example who does what in APS, aging services, civil legal services, forensic accounting services, geriatric care, guardianship, social services, victim services and more, and the pros and cons of various options.
 - *When I first started doing financial exploitation cases, I readily joined recommendations for guardianship. Having learned more about them from being on the MDT, and seeing them in place, I now appreciate that guardianship is an option of last resort and the importance of going to all lengths to find family members or relatives to get reconnected and involved first.*
- When prosecutors are active team-members, law enforcement is also more likely to be knowledgeable about handling elder abuse cases and engaged in cases.
 - *Last year we [including prosecutors and the MDT coordinator] did first responder training for NYPD, EMTs, and FDNY on World Elder Abuse Awareness Day. We explained, "This is a crime scene." Checklists mentally demystify it. We discussed "what's relevant?" If you're the one who takes the first witness statement, what do you ask? Take video or pictures of the empty*



medicine bottles, the dirty diapers, the sheets and the empty fridge right at the outset. The training was well received by NYPD. It's an issue NYPD has gotten behind.

- Having prosecutors on MDTs raises awareness among other team members and their agencies about the role, limits, and priorities of the DA's office. As a result, those agencies report more appropriate cases to law enforcement and better understand the high burden of proof prosecutors must meet to prove a criminal case.
 - *I often hear complaints about a target of a potential investigation using "undue influence" over the senior. "Undue influence" is not in the Penal Law. There might be a remedy for it, but not in New York's criminal code.*
- Being on MDTs can provide prosecutors with a greater understanding of, and more sophisticated language to discuss and respond to the aging and psychosocial aspects of elder abuse cases.
- MDTs enable team members to do "real time" outreach based on local trends.
 - *On my MDT [a team outside NYC], the DA's office took a leadership role in developing a successful outreach campaign based on trends we were seeing in our caseload. The campaign resulted in a 30% increase in reports to APS.*
- Prosecutors often find it helpful to seek input from other team members in navigating complexities in their elder abuse cases.
 - *I brought an ethical dilemma to the team about whether or not to pursue a case the victim wanted me to drop. It was a fascinating and educational discussion, and, I thought, a fabulous use of the team.*
- MDT membership expands the avenues available to get out the word about successful prosecutions and other efforts by the DA's office to combat elder abuse.
 - *Since being a part of the MDT, I'm much more active in giving presentations at senior centers and the like, about how to avoid becoming a victim.*
- Being part of MDTs expands prosecutors' views of their role.
 - *It's not just about getting convictions. These cases are so much more complicated than that. The more you realize that, the more you're aware of your need for other disciplines.*
- When there's insufficient legal or factual basis to prosecute a case or it's not yet clear whether there is a viable criminal case, other agencies around the table might have tools to aid at-risk victims or stop abuse, neglect, or financial exploitation. Thus, being on MDTs can raise prosecutors' awareness about additional alternatives in their cases.
 - *Sometimes the MDT can afford us the satisfaction of assisting a senior as best we can, while accepting the fact that just because we may not like a senior's decision, it's their decision.*



Relationships

- When issues arise, prosecutors know whom to call because of relationships built on the team can accelerate and improve responses, coordination and trust.
 - *Relationships are the most important element of MDTs.*
 - *Agencies used to jealously guard their own cases. Sharing was seen as an admission that “we can’t handle them.” That has broken down. We’re a closer group now. Willingness to work cooperatively is the secret sauce. The rest will follow. Communication is the key.*
- Relationships can expand the sources of information and facilitate access to it as prosecutors investigate and prepare their cases.
 - *How do you understand each other? Cross training. Sitting at table together. Ask questions, like, “Did you consider this or that?” Or explaining, “This is why we can’t move forward.” There’s a level of accountability when we’re both at the table and can talk it out. That’s the importance of the relationship.*


Save Time

- At meetings, prosecutors can quickly learn a lot about a case they’re handling.
- In financial exploitation cases, I want to know about the living arrangements of the senior and specifically, who has access to the person, their personal information, and their assets. Caseworkers often have a birds-eye-view of the senior’s living situation, providing critical information fast.
- Cases reported to multiple agencies at once through the MDT can be streamlined so agencies are not duplicating work.
 - *Recently it came to the MDT’s attention that two different guardianship proceedings had been filed for the same person.*
 - *The MDT Coordinator keeps the work moving forward in a well-choreographed manner and works to get the relevant people in the room for case discussions.*
 - *Having the MDT Coordinator is huge. She does a great job making sure things are addressed. She’s not just listening. She’s the quarterback. I love it. Having that quarterback has made my life easier with elder abuse cases. Before it was like herding cats.*

Strengthen and Illuminate Cases

Prosecutors can learn new information relevant to their investigations or cases during team discussions.

- *The team’s discussion can provide information that might make your case stronger or weaker. For example, you might learn that the defendant is violating an order of protection. Or that the victim has or lacks the cognitive capacity to give away money. Either way, that’s information you need to know.*
- Cases that come through an MDT tend to be stronger and more thoroughly investigated. When other agencies are also looking at a case, prosecutors get a fuller picture than they might



otherwise. Research indicates that MDT cases also are more likely to be prosecuted. (Navarro, 2012)

- *You learn about information in the hands of other professionals or agencies about cases you're pursuing or are considering pursuing.*
- Being on MDTs can alert prosecutors to cases before they would otherwise learn about them.
 - *A less confrontational non-law enforcement interaction can shed light on an on-going larceny, making us [prosecutors] aware of cases earlier, and often stop the bleeding before all the assets are drained.*

B. PROSECUTORS' CONCERNS ABOUT BEING ON MDTs

Prosecutors also had some concerns about being on MDTs. And while they believed those concerns to be outweighed by the benefits of team membership, they also believed there was value in other team members understanding their concerns, including: (1) Expectation management, (2) Information sharing and confidentiality, (3) Professional culture, and (4) Scheduling.

Expectation Management

- ADAs noted that other team members sometimes had unrealistic expectations about what cases they could or should pursue. MDT participation helped varied professionals align their expectations of one another to better reflect their respective realities.
 - *I've gotten defensive when questioned why I wasn't prosecuting a case, but then did the same thing with APS—asking why aren't you accepting this case? Why aren't you moving on guardianship?*
- A few ADAs believed that their decisions took on an outsized role in the way the MDT evaluated success. Everyone interviewed agreed that teams could do a lot of good, even when a case wasn't appropriate for prosecution or the case didn't result in a conviction.
 - *What is prosecutable and what isn't should be just one aspect of a broader discussion about what's best for the victim.*
- A couple of interviewees suggested that to manage such expectations, new and even existing MDTs might benefit from presentations by ADAs about the factors they consider in deciding whether to pursue an elder abuse case.
 - *There's a basic lack of understanding about how the criminal justice system works. Teams need Criminal Justice 101. Where do people go when they're arrested? If they don't make bail, what happens? At what point do prosecutors come into a case? What does it mean to go to the grand jury? What's an indictment? Who does what? What's the difference between a federal prosecutor, the State Attorney General and a local DA?*
- Tools available to prosecutors to gather information are governed by strict rules.
 - *Using a grand jury for a fishing expedition is improper. Case managers and other team members have different restrictions in gathering information.*




Information Sharing and Confidentiality

- Some MDTs draft a confidentiality agreement or a Memorandum of Understanding (MOU) for team members to sign regarding disclosures of information beyond team meetings to address the obligations and concerns of team members and their agencies.
- The law mandates the secrecy of any information relating to or obtained through a grand jury. Violating that secrecy is against the law. Even confidentiality agreements and MOUs do not allow for sharing grand jury material.
 - *Information-sharing with other MDT members often can't be a two-way street given grand jury secrecy requirements and other considerations. I can't even say if there's a grand jury investigation going on.*
- ADAs also might be reluctant to share information that could compromise witness confidentiality or the outcome of a case.
- When victim safety is at issue, the calculus on information sharing may change, as permitted by law.
- Some prosecutors worried that MDT case discussions could trigger discovery and disclosure obligations. ADAs strive to balance their roles as MDT members and officers of the court.
 - *As an officer of the court, I'm bound by discovery and disclosure obligations.*
- *People v. Rosario*, 173 N.E. 2d 881 (N.Y. 1961) requires prosecutors to turn over all statements of any witness they plan to call at trial and *Brady v. Maryland*, 373 U.S. 83 (1963) requires them to turn over all exculpatory evidence (i.e., any evidence favorable to the defendant).
 - *Rosario doesn't scare me. Either does Brady. If there's exculpatory information out there, I should know it anyway. As a prosecutor, I should want to know it. That doesn't deter me.*
 - *A prosecutor should want to know all of the weaknesses of a case and not try to avoid those discoveries. This is especially true in cases where the abuser is someone very close to the victim, because that person probably knows the exculpatory information.*
- The ADAs interviewed uniformly said that information sharing and disclosure concerns are serious but not insurmountable. Many sorts of MDTs have navigated them successfully for years. But it helps if other team members are aware of the prosecutors' obligations and concerns.

Professional Culture

- Some prosecutors noted that going to two-hour meetings twice a month with "all that talking" was not for every prosecutor, even ones in elder abuse units. Some liked or saw value in the collaborative MDT process. Others didn't. Thus, it was important for the attorney who staffed the MDT to be someone who was inclined to do that sort of work.
 - *I go the meetings and handle cases; my colleague is a brilliant prosecutor but hates long meetings, so focuses on just bringing the cases.*
- Team members had different styles of questioning one another about cases.

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- *I'm fine with an open, candid discussion as long as it's respectful. I have no issue with someone asking me: why didn't you guys prosecute? Or even being asked whether the police or we dropped the ball. I would rather hear what folks are thinking. In the same vein, I like to be able ask: Why didn't you accept this case?*

Scheduling

- Prosecutors have unpredictable schedules, periods of intense work during trial preparation, and may be called to court on short notice. Some DA's offices (like other MDT members' offices) address this issue by designating a back-up person to attend meetings when necessary.



2. The MDT Perspective

A. THE VALUE OF HAVING PROSECUTORS ON THE MDT

MDT team members assign great value to having a prosecutor on the team, both at meetings and accessible for “off-line” conversations. The benefits discussed fell into the following categories: (1) Access to prosecutors/relationships, (2) Accountability (of systems and individuals), (3) Education of the team, (4) Empowerment of the team, (5) MDTs expanded understanding of the range of resources available to prosecutors, and (6) Raising public awareness.

Access to Prosecutors/Relationships

- Team members valued getting to know and being able to contact prosecutors.
 - *Just having access to this often inscrutable and intimidating agency is a huge benefit.*
 - *As time went on, my staff got more confident because they developed a relationship with the prosecutor. They became more confident in their presentation of cases to MDTs and in investigating cases.*
- By getting to know ADAs, people who work with more than one MDT learn about differences among offices and boroughs in the handling of elder abuse cases.
 - *Staffing models are inconsistent across the five boroughs. Some prosecutors’ offices have designated social workers. Others have more limited staffing. Those staffing models may have an impact on relationships and communication between prosecutors and other organizations on MDTs.*
- There were divergent views about the impact of prosecutors not attending meetings. Some believed personnel without legal training could stand in for the ADA and relay legal questions back to the prosecutor. But most people interviewed—prosecutors and other team members alike—were of the view that it was a significant loss to the team not to have someone in the room with expertise in criminal law and process.
 - *If the prosecutor’s in the room, I now know you. If a case goes south, we can talk about it.*
 - *The ADA would say, “Look at this fact. You’re not clear about it. It needs to be clarified. Or she’d say, “This is not a crime. Period.” She taught me what doing a good investigation looked like. And I was able to go back and teach my staff. It’s a work in progress. That’s one reason why it is so important an ADA is at the table.*

Accountability (of Systems and Individuals)

- In situations where elder abuse is suspected, just having a prosecutor begin looking into the allegations can deter potential abuse and neglect and promote greater accountability of systems and potential abusers.
 - *Sometimes just our opening an investigation motivates people to clean up their acts.*

- Prosecutors' investigations and questions can illuminate systemic weaknesses thereby promoting greater systemic accountability too. (Navarro, et. al, 2012)
 - *The fact that [the prosecutor] was willing to hold the person accountable was motivating for the rest of the team. We learned a lot, too.*
- MDT members see many serious wrongs for which no one is held accountable. When prosecutors hear case discussions during meetings, it is more likely that the legal issues will be scrutinized. When prosecutors are on teams, potential violations of criminal law that occur in elder abuse cases are more likely to be identified and prosecuted. (Navarro, 2012)
 - *Sometimes the team will discuss a case, and I'll say, "Why are we not involved?"*
- MDT Coordinators play a role in promoting team member accountability.
- The MDT Coordinator has to try to hold everyone accountable for what they say they'll do. That can be challenging depending on who the prosecutor is.
- Being part of the team creates a sense of shared accountability to one another.
 - *We're all so busy and the cases are so difficult, they can get lost in the shuffle. We might not work on them as much as we should. The MDT makes us all more accountable, especially when we have to present. After meetings, people know there's an action plan that guides everyone.*

Education of the Team

- MDTs promote several types of learning.
 - *We focus on three types of education: Professional Development, Cross-training, and MDT Training (e.g., learning how to be an effective member of an MDT including, protocols, policies and guidelines of the team, team theory, and effective communication).*
- Prosecutors provide important education to other team members about the law and the criminal justice system, including about the players and their roles, what cases can and can't be prosecuted, what's allowed and not allowed in an investigation, and what's enough or not enough evidence to pursue a case.
 - *The definition of "law enforcement" is confusing. In some places prosecutors are considered law enforcement. In others they aren't. And the relationships between prosecutors and other law enforcement are different everywhere.*
 - *If you have a good prosecutor on the team, it can make a world of difference in educating others. People learn a lot just by listening to them. Learn about the system. About the law. That's also helpful in future cases.*
- Non-prosecutor team members found it valuable to hear prosecutors explain *why* they could not bring a case. Over time, they gained a better understanding of the multi-faceted considerations relating to criminal prosecution that helped to inform their views and actions in future cases.
 - *Just because someone doesn't like what's going on doesn't mean it's illegal. There's such a high burden in a criminal case.*

- What prosecutors say about the law or facts in a case may cause other team members to change how they see the case and what options to pursue.
 - *Ideally, all team members educate one another to help victims and make systems run better.*
- MDTs see hard cases. Team members are afforded many opportunities to learn and fine-tune, not only from their “successes” but also their “failures.”
 - *Some of the best work I have observed on MDTs has come out of cases where things didn’t go well. By examining outcomes, teams can adjust policy and protocols for both the team and for agencies, identify and resolve holes in the system, and improve their evaluation of cases in an ongoing way – refining their work to be more effective and efficient.*
- ADAs can demystify the criminal justice system and how things work in their individual offices. Their presence on MDTs helps the team better understand law enforcement, investigations, protective orders, special courts, restitution, and issues such as:
 - *Which ADA in the office handles physical, sexual, verbal, neglect or financial cases?*
 - *What section of the DA’s office handles each sort of case? (Elder abuse cases are variably handled by divisions/units/bureaus with myriad names in NYC DA’s offices, including special victims, trial, investigation, domestic violence, economic crimes, financial fraud, strategic enforcement, criminal court and more.)*
 - *Does the office work with or have on staff detectives, social workers, victim advocates and/or forensic accountants, who specialize in elder abuse or in a particular type of elder abuse?*
 - *Does the office accept citizen complaints and if so, what’s the process?*

Empowerment of the Team

- Many people respect or are scared of prosecutors. This can help the team because it may make other individuals and entities more responsive to an ADA’s inquiries.
- Having prosecutors there—with the power of the DA’s Office—empowers the team, too.
- Having prosecutors on the team can make others better at their jobs.
 - *I had to explain: “This is how you do an interview. This is how to identify someone. This is how to document something. This is what you do to preserve evidence, meds, records. This is the kind of information the police need to know when you make a report. Don’t just say ‘my client’s being abused.’” People need to be trained on that.*
- The ADAs elected bosses are often the highest-profile officials among the many systems represented on MDTs. They often also have more political sway than other team members to promote improved systemic responses to elder abuse.
 - *DA’s get attention and press coverage.*



MDTs Expanded Understanding of the Range of Resources Available to Prosecutors

- Prosecutors may have internal resources or options available to them (such as special courts) that are preferable to victims to traditional prosecution. Other team members may not be aware of those resources and options. Conversely, team members may have information the prosecutor does not have relevant to considering such options (such as mental health, intellectual or substance issues of an alleged perpetrator).
- In some jurisdictions, diversion of criminal cases to special courts is available. These can, under appropriate circumstances, expand the range of potential options and include ways to leverage resolutions that better meet both victims' and defendants' needs, especially where the victim is concerned about and wishes to find a way to help the defendant. Special criminal courts differ from jurisdiction-to-jurisdiction, but often include Mental Health court, Drug court and Veterans court. (Note that in some jurisdictions, alternative courts might not take cases involving "vulnerable victims" or might only handle misdemeanors or have other restrictions.)
 - *When an ADA working with the mental health court spoke to our team, I learned about an important resource. I have no doubt that some elder abuse victims I work with, when I tell them about this option, will view it as a beacon of hope.*
- Prosecutors may also, under appropriate circumstances, coordinate or share information with special civil courts, such as probate, family or guardianship courts, because of information learned through the MDT.
 - *If the guardianship court is considering naming someone I'm investigating for fraud to be a guardian, I'll let the court know about my case. Or if the person for whom guardianship is being petitioned is being financially exploited, they might contact us.*
 - *Recently an ADA testified at an annulment proceeding before a guardianship judge. The marriage was annulled based in part on findings from the prosecution.*
- Some prosecutor's offices have on staff non-attorney social workers, investigators, accountants or coordinators (other than MDT coordinators) who also can be very helpful.
 - *Sometimes the social worker or coordinator in the DA's office has more information about a case than I do, and a better sense of the challenges.*
- Victim services can enhance not just the outcome of a prosecution but also the well-being of a victim, consistent with the team's goals.
 - *We have three social workers in the DA's office that work on elder abuse cases. They're a huge resource. If the victim is injured, we go to them. They go to the hospital to see victims. They work closely with the DV POs [domestic violence police officers] and go out with them regularly. All the DV officers have been trained by our social workers*
- Prosecutors can also seek remedies (other than prosecution) that protect the victim's physical or financial well-being, address root causes of problems they face, and frame claims in a way that might make a victim eligible for resources, consistent with information discussed at team meetings. Examples of such resources include:

- *Restitution orders (and consideration about payment of restitution; some prosecutors consider incentives for defendants to pay restitution)*
- *Orders of protection*
- *Wellness checks (by law enforcement)*
- *Freezing assets*
- *Restorative justice or other harm reduction. (Such measures have received positive reviews in other fields but are rarely used in elder abuse cases. Many older victims care deeply for those who harm them (often their adult children or grandchildren) leading them to oppose prosecution and even making some victims reluctant to seek any type of help for fear of it. In financial exploitation cases, many victims just want to get back enough money to survive. Thus, several interviewees suggested that elder abuse could be a fertile area to explore use of restorative practices.)*
- *New legislation in New York State expands victim compensation for up to \$30,000 for victimized “vulnerable adults” if meeting eligibility criteria.*
- *Controlled substance, drug or alcohol rehabilitation for defendants as a condition of sentence.*

Raising Awareness (see also Education)


- Most professionals on MDTs are bound by confidentiality rules. But some kinds of material used in the criminal justice system—police reports, pleadings and evidence filed in court, and trial testimony—become matters of public record. This may lead to press coverage about elder abuse that raises awareness about the problem and informs people about what to do or where to seek help.
 - *Prosecution of elder abuse cases raises awareness in the community about the problem.*

B. MDT CONCERNS ABOUT PROSECUTORS’ ROLE ON THE MDT

MDT members said that they greatly valued having prosecutors on teams but they too had some concerns: (1) Expectation management, (2) Information sharing, and (3) Professional culture.

Expectation Management

- Some interviewees feared they or the team had failed when a prosecutor didn’t pursue a case that the team discussed, especially when that person had worked on or presented the case. When pressed, everyone agreed that the MDT’s “success” in handling a case should not be defined by the prosecutor’s actions.
 - *Why would “success” hinge on whether the case goes forward in criminal court? I view prosecution as an extreme and a last resort in many cases.*
 - *Let’s stop the bleeding first and then worry about prosecution.*
 - *The prosecutor told me, “Don’t base the decision about whether you’re successful on whether I prosecuted. Tell me if the person is safe.” That made a big difference in my career.*

- 
- MDT members also felt that prosecutors sometimes had unrealistic expectations of what their agencies could and couldn't or should and shouldn't do.
 - *Often our expectations of one another are unrealistic.*

Information Sharing

- Confidentiality is a concern not just for prosecutors but also for other team members, especially when the information prosecutors seek to use may undermine clients' trust or expectations of confidentiality from medical or social service providers.
- ADAs' concerns about information sharing sometimes leave other team members confused about what prosecutors can and can't reveal, and when.
 - *It would help the team to know what types of prosecutor records are public.*
- Teams are not there to gather information for prosecutors. This would not be appropriate. All agencies, however, can share information they collect under their own auspices as governed by law and their respective rules and practices.
- Some team members felt that much of what prosecutors do in elder abuse cases stays "in a black box" and they don't learn about case results until much later, if ever, even when information is public or permitted to become public.
 - *Understood. Sometimes just a call to ask can go a long way. But prosecutors do need to do better on follow up.*

Professional Culture

- Prosecutors' professional culture is different than those of other team members. By definition their skills, honed by sparring in courtrooms, include trying to convince others to see things their way. Some can be argumentative and express their views in a more confident and definitive ways than other team members. Some MDT members found this intimidating and were less likely to express their views in an exchange involving a prosecutor.
 - *I learned during the meetings that tone and the way questions are asked really matters. My "natural" (prosecutorial) way of gathering information about a case may be fine for a cop, but not for someone from another agency.*
- Prosecutors are trained to be persuasive when they speak, so their views may be given more weight than other team members less adept at arguing their views.
 - *It's hard to question the thinking or decisions of the prosecutors on the team.*
- In contrast to other professionals on MDTs, prosecutors have significant discretion in what cases they choose to pursue and how they go about doing so. Some team members believed that prosecutors were more likely to question their decisions than they were to question the decisions of prosecutors.
 - *My supervisors go to the meetings to back up the caseworkers in case some issue comes up.*
- By contrast, some prosecutors thought that other team members felt free to challenge them about not prosecuting cases.
 - *I also can get defensive when confronted about why I didn't bring a case.*



3. General Observations

Awareness

Prosecution of elder abuse cases puts information into the public domain and thus can serve to raise awareness in the community about elder abuse, what conduct is and is not deemed acceptable. As prosecutors bring more cases, and hear about cases on teams, they see local patterns in elder victimization. That information allows them to warn the public about specific types of predatory conduct to watch out for.

Conflict

Team members want to “get it right.” Sometimes one team member’s rigorous attempt to understand all the facts and options can seem to another like criticism or interrogation. MDT Coordinators try to find a balance, encouraging inquiry in a spirit of trust without excessive aggression or confrontation. Several interviewees described contentious meetings where one person challenged another for not doing enough or handling a case incorrectly. MDT Coordinators strive to preempt such conflicts (with notice and pre-meeting discussions or attempts to take disputes “off line”). But some conflict is unavoidable. Several team members took the long view of occasional flare-ups, believing that despite ruffled feathers in the short term, such events could, with skillful management, be transformed into important and lasting opportunities for growth and learning.

Learning

Inevitably some cases don’t go well. Individuals, agencies and teams make mistakes. Cases illuminate new problems. And questions linger. Suboptimum outcomes and errors aren’t easy for any team member. But despite, and sometimes because of them, the people, protocols and policies of MDTs evolve because the team provides a forum to recognize, discuss, adjust, learn and improve how elder abuse is approached—by individuals, their organizations, and collectively as a team.

Measuring Success

All interviewees agreed that the success of the team should not be measured based on whether the prosecutor pursued a case. Many interviewees (ADAs and others) believed that some of the teams’ greatest successes came in situations where prosecution didn’t come into play at all—yet still elder abuse was stopped or prevented. The more complex question raised is how MDTs should define success—a complex question this document does not presume to answer but that teams should consider as they do their work. The interviews indicated that teams would benefit from a more integrated definition of “successful MDT intervention.”



Policy issues

MDTs and the cases they review expose a multitude of policy and systemic issues related to how we address elder abuse. These are rarely captured anywhere let alone analyzed or addressed in a systematic way. The problems individuals encounter are rarely analyzed in the context of the systemic flaws that contribute to them. (*There's no infrastructure to catch policy issues and think about them on a systemic holistic level, or even case by case.*) Doing so could provide an important contribution to the knowledge base about how we respond to elder abuse and the role and impact of MDTs.

Research, Data Collection & Innovation

The proliferation of MDTs provides an important opportunity to collect data about such teams, their functioning, goals, definitions of “success,” outcomes, whether they improve the well-being of the older adults who are their raison d’être, and about the work and evolution of each of the team members, including prosecutors. Such data, if well collected and analyzed, could provide invaluable insights to people on existing teams and to those seeking to create new ones.

MDTs also generate lots of issues that can be translated into research questions. Several articles cited in Appendix 5 were the result of studies focused on California MDTs. In addition, a NYC prosecutor’s questions to a team physician about whether certain injuries were evidence of elder abuse led to (ongoing) research intended to yield new data about “forensic markers” of elder abuse. (Rosen, 2015) In short, by bringing experts with many diverse skill-sets to the table in a problem-solving mode, MDTs can spark all sorts of innovation.

Conclusion

MDTs reflect a community’s commitment to improve how it addresses elder abuse within the context of the unique resources and challenges of each locale. For some team members, MDT participation was a matter of personal initiative. But increasingly, leaders of agencies and offices are recognizing the pervasive nature of elder abuse and making it a priority, setting the tone from above.

Many NYC prosecutors have become leaders in their communities in the fight against elder abuse. Everyone interviewed agreed that they play a critical role on MDTs—holding individuals accountable, illuminating systemic weaknesses, and educating other team members and the public about the law and the criminal justice system. Other team members in turn educate prosecutors about aging and the range of services, supports and protections available for older people at risk.

In sum, prosecutors’ participation on teams expands their capacity to further justice for older people and enhances MDTs’ capacity to stop elder abuse and improve the lives of the people they serve.



Appendices



Appendix 1

ACRONYMS AND TERMS

ACRONYM / PHRASE	TERM
ACL	Administration for Community Living
ADA	Assistant District Attorney
APS	Adult Protective Services
<i>Brady</i>	<i>Brady v. Maryland</i> (1963) is a US Supreme Court decision mandating that prosecutors turn over to the defense any exculpatory material (i.e., material favorable to the defendant).
DA	District Attorney
DANY	District Attorney of New York (Manhattan)
EA	Elder Abuse
E-MDT	In New York State and New York City, the term <i>Enhanced MDT</i> or <i>E-MDT</i> refers to teams that have been “enhanced” with the participation of specialists, including geriatric psychiatrists, forensic accountants and/or legal services. Enhancements could, however, include other things, like the use of additional specialists or the use of technology, like telehealth.
Geriatric Psych or Gero-psych	Geriatric Psychiatry, also known as Geropsychiatry (used interchangeably.)
Grand Jury	A group of people who decide whether there is sufficient evidence to indict a person charged with a crime allowing the case to proceed to trial. Grand juries can compel testimony and document production. Their proceedings must by law remain secret.
MDT	A Multidisciplinary Team brings together professionals from across disciplines and systems to discuss, review and respond to complex cases of elder abuse, neglect and financial exploitation.
NYCEAC	New York City Elder Abuse Center
WCM	Weill Cornell Medicine
<i>Rosario</i>	<i>People v. Rosario</i> is a legal decision of the NY Supreme Court holding that prosecutors must turn over all prior recorded statements of any witness they call at trial.



Appendix 2

METHODS

Information in this document was gathered in the following ways:

A. Observation

Attending meetings of the Brooklyn and Manhattan MDTs provided valuable information. Discussion with the teams began with the following questions:

1. What would the team like to know about prosecutors, especially in launching a new team?
2. What would prosecutors like MDT Coordinators and other team members to know about them, their work, and their offices?

B. Interviews

The lion's share of this document is drawn from dozens of interviews with the following: Assistant District Attorneys who work on elder abuse cases in each of the five New York City boroughs; attorneys who formerly held that position; elder abuse prosecutors involved in MDTs in other jurisdictions in New York and beyond; MDT Coordinators in NYC; MDT Coordinators who are members of NYCEAC's MDT Peer Leadership Group; NYC's HRA APS leadership; and NYCEAC staff, including the Executive Director, Deputy Director of MDTs and others. (See Appendix 4, *Acknowledgements*, for a full list of those interviewed.) Interviews included the questions in A.

C. Review of articles and other resources

Sources reviewed include documents that address the role of gero-psychiatrists and forensic accountants on New York's E-MDTs (because of their similarity in nature to this one); discussion with leading national experts on the subject of MDTs and/or prosecutors on them; and review of relevant articles.

D. Comments and suggested edits from sources

The draft document was circulated for comment to numerous individuals from diverse fields, including those interviewed.

In the interest of keeping the document a somewhat manageable length, the issues and ideas discussed in this document do not represent an exhaustive list of those encountered by MDTs or expressed by those interviewed.



Appendix 3

SYNOPSIS OF A CALIFORNIA STUDY MIRRORING THIS PROJECT

An article on Los Angeles prosecutors' perceptions of participating on MDTs (focused on elder financial exploitation cases) reported findings consistent with the views expressed in interviews done for this project. (DeLiema, M. et al., (2016). *Prosecutors' Perspectives on Elder Justice Using an Elder Abuse Forensic Center*, American Journal of Criminal Justice (<https://slideheaven.com/prosecutors-perspectives-on-elder-justice-using-an-elder-abuse-forensic-center.html>))

In that project, prosecutors reported that the purpose of the team was to: (1) ensure the safety of the client; (2) collect comprehensive information useful for legal proceeding intended to protect the client, including, where appropriate, prosecution or guardianship; and (3) to safeguard the client's assets from further exploitation. (DeLiema et. al, (2016))

The LA prosecutors were divided in how they saw their roles. Some viewed their role as contributing to "holistic case outcomes more oriented to the victim's present needs and prosecution when appropriate." Others saw their role as more limited—to pursue "criminal prosecution of offenders."

The prosecutors in the study, like those interviewed for this project, noted: (1) the presence of (and having ready access to) key decision makers from agencies increased their efficiency; (2) access to neuropsychologists and geriatricians assisted their prosecutions by conducting capacity evaluations and providing expert testimony; and (3) cross-disciplinary learning improved their understanding of the signs of elder abuse and of other agencies' roles and limitations.

In addition, the LA prosecutors noted that being on the team expanded their view of what was important and possible in elder abuse cases. *I came to see the victim as a whole person with a diverse set of social, medical, and clinical needs...beyond them being in a criminal case.... Do they have a safe home? Might they need intervention from someone else that needs to help them" with their life, family, residential placement.*




Appendix 4

ACKNOWLEDGEMENTS

Many thanks to those who generously contributed to this project by giving of their time and expertise either in individual interviews or group discussions, and/or reviewing the document and providing feedback on it.

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- Paul L. Caccamise, LMSW, ACSW, Vice President for Program, Lifespan of Greater Rochester, Inc., Rochester, NY
- Melanie Chan, Elder Abuse Unit Coordinator, New York County District Attorney's Office
- Catherine A. Christian, Chief, Elder Abuse Unit, New York County District Attorney's Office
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- Amy Litwin, Counsel, Special Victims Division, Bronx District Attorney's Office
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- 
- Arlene Markarian, Chief, Elder Abuse Unit, Nassau County District Attorney's Office; Former Chief, Elder Abuse Unit, Kings County District Attorney's Office
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 - Page Ulrey, Senior Deputy Prosecuting Attorney, Elder Abuse Project, King County (Washington) Prosecuting Attorney's Office
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- The U.S. Department of Justice, Elder Justice Initiative



Appendix 5

REFERENCES & RESOURCES

Policies & Procedure documents: Enhanced Multi-Disciplinary Team Supplements:


- Rosenbaum, J., Breckman, R., Caccamise, P., Abrams, R., Needell, N., Santos, E.J. (2017). Policies and Procedures: Enhanced Multi-Disciplinary Teams Supplement – Role and Responsibilities of Geriatric Psychiatrists or Geropsychiatrists
- Webber, K., Rosenbaum, J., Breckman, R., Caccamise, P. (2017). Policies and Procedures: Enhanced Multi-Disciplinary Teams Supplement – The Forensic Accounting Role

Websites

- Elder Justice Initiative website, U.S. Department of Justice:
 - <https://www.justice.gov/elderjustice> (Elder Justice Initiative home page)
 - <https://www.justice.gov/elderjustice/prosecutors-0> (prosecutor resources)
 - <https://www.justice.gov/elderjustice/mdt> (MDT resources)
 - <https://www.justice.gov/elderjustice/law-enforcement-1> (law enforcement resources)
- National Center on Elder Abuse website
 - <https://ncea.acl.gov/> (homepage)
 - <https://ncea.acl.gov/whatwedo/practice/teams-index.html>
- New York City Elder Abuse Center website:
 - <https://nyceac.org/clinical-services/mdts/>

Articles (some with links)

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 12. Payne, B. K. (2002). *An integrated understanding of elder abuse and neglect*. *Journal of Criminal Justice*, 30(6), 535–547.



Appendix 6

A BRIEF DESCRIPTION OF HOW ELDER ABUSE CASES ARE HANDLED IN EACH OF NEW YORK CITY'S DISTRICT ATTORNEY OFFICES

The following brief descriptions were written by each borough's District Attorney's Office.

Bronx

In the Bronx District Attorney's Office, our Special Victims Division is tasked with overseeing the intake and assignment of elder abuse (victims 60 years and older) investigations and cases to either Prosecutors within the Special Victims Division (those involving sex crimes or intimate partner crimes), Prosecutors within our Trial Division (those involving other types of intra-familial, acquaintance, or stranger crimes), or Prosecutors within the Investigations Division's Economic Crimes Bureau (those involving financial crimes). We are working towards each Division having designated Prosecutors to specifically handle elder abuse cases as well as crimes involving other vulnerable persons. Assisting Prosecutors in investigating and enhancing cases are Detectives within the Bronx DA's Detective Investigators, members of the NYPD's Bronx DA's Squad, our own Forensic Accountants, and specialized Units within our Strategic Enforcement and Intergovernmental Relations Division. An integral and central member of our Elder Abuse Team is our designated Elder Abuse Coordinator in our Crime Victims Assistance Unit (CVAU). She is an expert in the field who works closely with the Director and other members of CVAU. She serves both internal and external functions.

Internally, our Elder Abuse Coordinator advocates on behalf of elderly victims and witnesses, furnishes and accesses concrete social services and community support, and makes necessary referrals. She works closely with Prosecutors, Detective Investigators, and Bronx DA Squad Detectives both in the investigative process and in helping the victim or witness understand and navigate the Criminal Justice System. Externally, she provides an additional "user friendly" point of access for outside agencies or individuals to contact her with questions about suspected elder abuse. She engages in follow up with appropriate staff to evaluate the potential for prosecution by our Office and assists in redirecting those cases that we cannot pursue. She represents our Office in ongoing alliances with healthcare, social service, and city agencies, particularly through a primary leadership role in administering the Elder Abuse Multi-Disciplinary Task Force. She attends elder abuse meetings, does outreach work to heighten awareness of elder abuse, develops and disseminates informational and prevention materials to seniors, and provides training for staff that work with the elder population.



Brooklyn

The Elder Abuse Unit (EAU) of the Domestic Violence Bureau handles all cases of spousal/intimate partner abuse and parental abuse [including parents, grandparents, great grandparents, etc.] involving victims age 60 years or older. The Elder Abuse Unit handles cases of physical abuse. Physical abuse includes not only assaults, but also threats of violence. The unit also handles cases involving neglect and/or physical abuse by paid and unpaid caregivers. The unit is comprised of attorneys and social workers who work closely with the KCDA Victim Services Unit with a staff of social workers and advocates to assist all victims of crime.

Financial crimes involving victims over 60 are handled by the Frauds Unit within the Investigations Bureau. The Unit is comprised of attorneys; detective investigators, investigative analysts and forensic accountants to assist prosecutors office wide to both investigate or enhance their cases.

When an arrest is made, the EAU counselors immediately reach out to every victim by telephone. If a victim is unable to come into the DA's office, a car service is provided. Additionally, if the victim is homebound or hospitalized a counselor and an ADA will meet the victim at their facility. Every case is assigned and handled by an ADA and social worker/counselor who work collaboratively to enhance the prosecution and ensure the safety and wellbeing of the victim through social service referrals as well as working with the NYPD to schedule "wellness and safety checks." When a victim is uncooperative or unavailable to testify we endeavor to proceed with an evidence-based prosecution.

Most elder abuse cases are disposed of with agreed upon dispositions. Many of our cases result in alternative sentencing programs that address the defendants' substance abuse or mental health issues as an alternative to incarceration.

The Elder Abuse Unit (EAU) is co-located with the NYC Family Justice Center (FJC). The FJC provides on-site social services to all victims—regardless of whether there is a criminal case. This proximity and collaborative culture allows our senior victim easy access to a plethora of social and civil legal services just down the hall from the EAU. The FJC, working with KCDA and Family Court created the Family Justice Elder Abuse Order of Protection Project where, with help of JASA social workers, elder abuse victims no longer need to stand around the courthouse all day trying to get an Order of Protection.

Manhattan

New York County District Attorney's Office Elder Abuse Unit

Our Elder Abuse Unit investigates and prosecutes crimes against victims who are 60 years of age or older, including physical abuse, domestic violence, financial exploitation and neglect. The Unit's prosecutions and investigations are conducted by prosecutors assigned to the Trial Division's Special Victims Bureau and the Investigations Division's Financial Frauds Bureau.



Queens

Elder Abuse Cases are, generally speaking, handled by the Queens County District Attorney's Office in the following manner: financial crimes and civilian complaints regarding abuse are handled in the Elder Fraud Unit within the Economic Crimes Bureau, physical and sexual abuse and neglect are handled in either the Special Victims Bureau (felonies) or our Criminal Court Bureau (misdemeanors). We have designated detectives in each bureau to assist in the investigation and prosecution, have forensic accountants that assist office-wide, and have a social service staff that assists with the social service needs of the victims, the intake and gathering of facts, victim advocacy, and APS referrals.

Staten Island

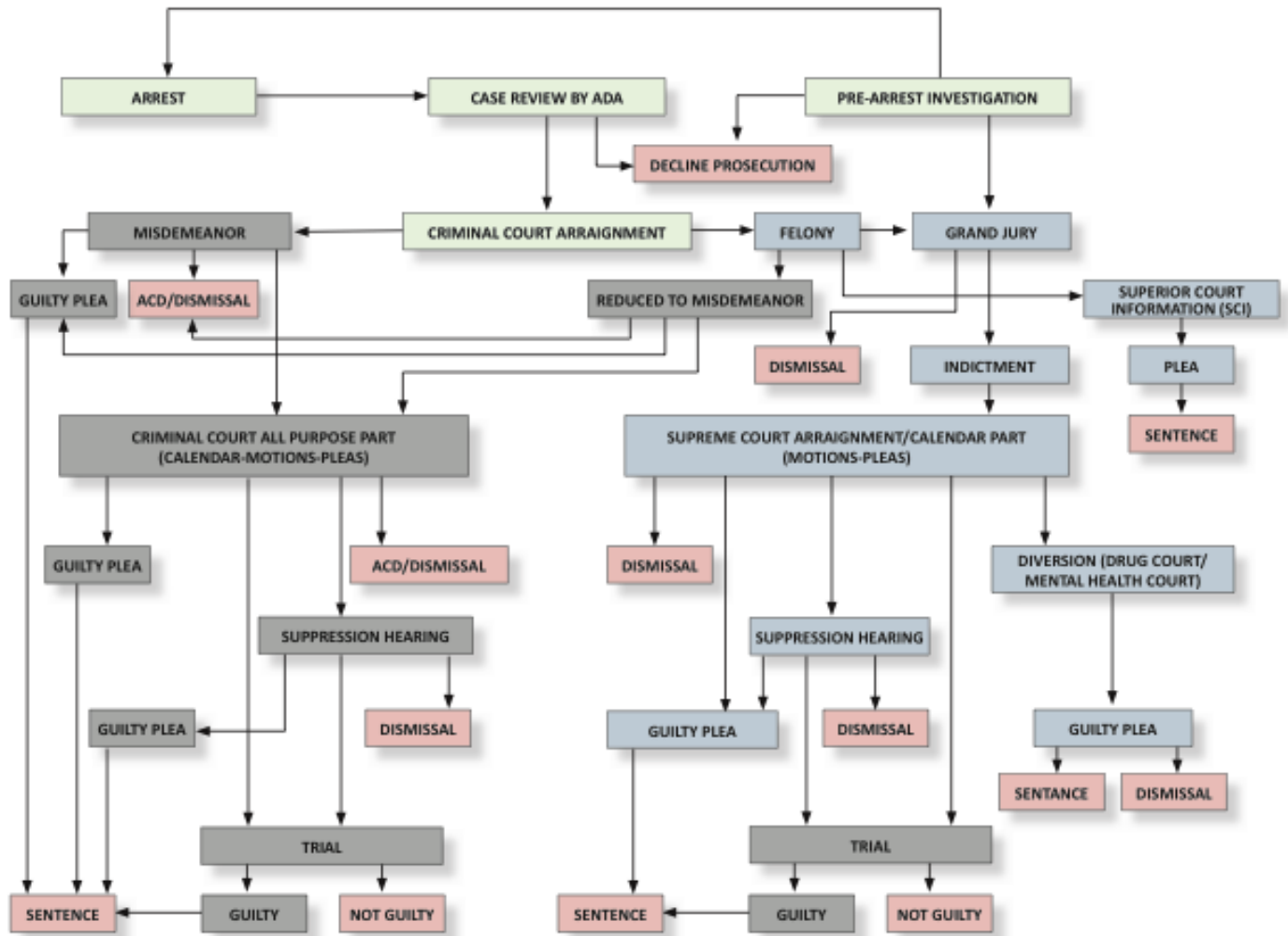
Richmond County District Attorney's Office Elder Abuse Unit

Our Elder Abuse Unit investigates and prosecutes crimes against victims who are 65 years of age or older, including physical abuse, domestic violence, financial exploitation and neglect. The Unit's prosecutions and investigations are conducted by prosecutors assigned to the Special Victims Bureau, the Trial Bureau, and the Economic Crimes Bureau. The prosecutors are assisted by NYPD detectives from the Richmond County District Attorney's Detective Squad, detective investigators in the Richmond County District Attorney's Office Detective Investigator Squad, and victim advocates from the Victim Advocate Unit.

Appendix 7

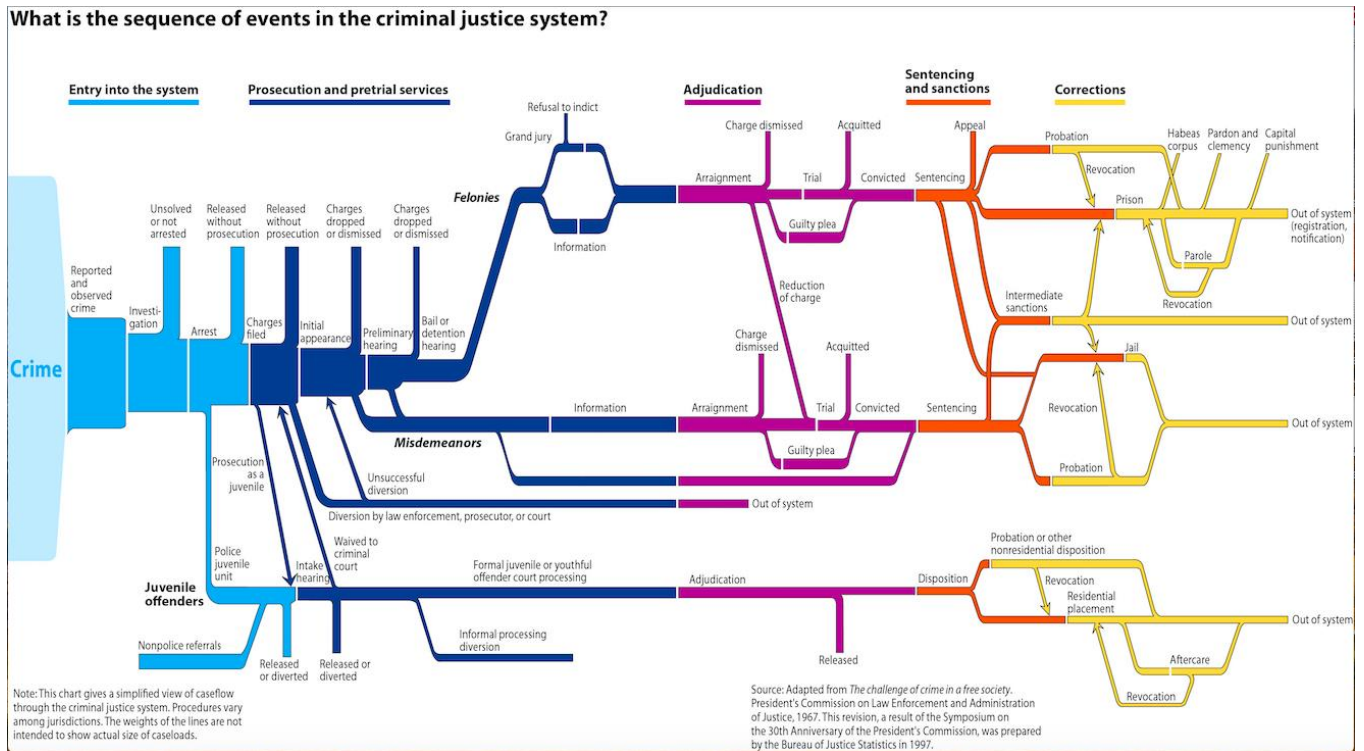
FLOW CHARTS ILLUSTRATING HOW CASES MOVE THROUGH THE CRIMINAL JUSTICE SYSTEM


FLOW CHART FOR CRIMINAL CASES IN NEW YORK CITY



The Bureau of Justice Statistics developed this general and detailed flow chart of sequence of events in the criminal justice system. The web-based version of this flow chart is interactive:

<https://www.bjs.gov/content/largechart.cfm>





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