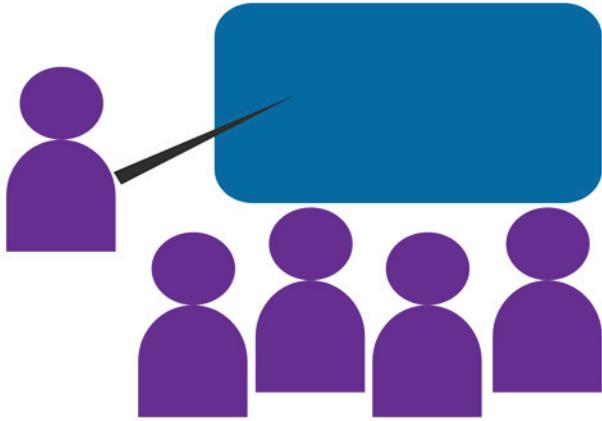


The Road to Consistent Case Findings



Introduction

Trying to accurately determine the prevalence of adult maltreatment across the nation is a huge unmet challenge. There are several reasons for this. First is the widely acknowledged fact that only a small percentage of abuse cases are ever reported (Thomas, 2000). This is compounded by the fact that adult protective services (APS) reporting requirements and client eligibility criteria differ from state to state so that state prevalence rates cannot be aggregated without multiple levels of explanations (e.g., which states include facility investigations or require a financial abuse perpetrator to be a trusted other, etc.) (McGee & Urban, 2020). In a recent presentation of National Adult Maltreatment Reporting System (NAMRS) data at the 2020 USC Judith

D. Tamkin International Symposium on Elder Abuse, it was reported that the 2017 NAMRS data showed that the percentage of clients who were victims (that is, where the alleged adult maltreatment was confirmed by an APS program) ranged from 2.6% to 100% across the states. The average was 35.8%. Even within a state, where individuals are reporting

based on the same requirements, and clients must meet the same eligibility criteria, there can still be wide variations on whether maltreatment is and is not confirmed (Mosqueda L., 2016). Workers, when presented with the same fact pattern, may strongly disagree about whether the maltreatment should or should not be confirmed. Developing a way to improve the consistency of case findings is a first step towards getting to accurate maltreatment prevalence data.

This brief will showcase a protocol that was developed to help California APS programs increase the consistency of their findings and will discuss how other states have adapted that protocol. This information is being provided to help states come into alignment with the guidance in the [Voluntary Consensus Guidelines for State APS Systems](#) that “APS workers are trained on and have a clear understanding of the definitions of case findings (e.g., ‘confirmed,’ ‘unfounded,’ or ‘inconclusive’)” (Administration for Community Living, Updated March 2020).

Note: In this brief the terms confirmed, and unfounded are used as the terms to indicate whether a report of abuse did or did not occur. There are, however, a number of different terms used by states to indicate their findings. They include substantiated, founded, proven, validated, etc. Inconclusive is used to indicate that the information gathered reasonably supports only some of the essential elements of the alleged abuse or neglect.

The California Consistency in Findings Protocol

In 2006 the California statewide APS committee (Protective Services Oversight Committee or PSOC) of the County Welfare Director’s Association formed a workgroup to address the findings of a research project funded by the Archstone Foundation and conducted by the Department of Geriatrics at the University of California, Irvine. The purpose of the study was to examine the quality of APS data as reported to the state by the county APS programs. One of the key findings of that study was that rates of the three determination categories used by California APS programs differed significantly from county to county.

“Findings varied from:

- [rates of] confirmed investigations ranging from 0% to 68.1%
- [rates of] inconclusive investigations ranging from 8.1% to 100.0%
- [rates of] unfounded investigations ranging from 0% to 79.33%.

These ranges far exceeded normal variations and were a reflection of inconsistent definitions and practices across counties”

(County Welfare Directors Association, Originated August 2012).

The workgroup created a two-part protocol which includes a reference tool, the “California APS Standards for Consistency in Determining Findings Matrix” which outlines standards to improve the consistency of how cases are approached and understood, and the “Guiding Principles” which focuses workers on the relevant information. The two components are designed to work together.

The California Guiding Principles

The following chart provides the California Guiding Principles on the left and the rationale for each principle on the right. As you will see, the guiding principles will align with practice in most states but there are also areas that may be different. For example, two areas that may be different are (1) whether or not the intent of the abuser must be proven and (2) whether the abuser must be identified.

Findings are...

| California Guiding Principles | Rationale for this Principle |
|--|---|
| A reflection of the investigation and the information gathered pertaining to the essential defining elements of the alleged abuse. | Findings need to address each defining element of the abuse type (e.g., sexual abuse requires that there be (1) a sexual situation that is (2) unwanted). |
| Based upon the social worker’s (SW) evaluation of the credible information gathered as to whether or not abuse has occurred. | California (CA) wanted to acknowledge the role of social worker’s judgment in the process of determining findings. |
| Based on community standards rather than the client’s perspective in determining self-neglect. | While APS honors the client’s right to self-determination, findings need to be based on an objective standard rather than the client’s perspective. |

Findings are not...

| California Guiding Principles | Rationale for this Principle |
|--|--|
| Tied to services, i.e., you need not have a confirmed or inconclusive finding to offer services. | Some counties would want to provide services on unfounded or inconclusive cases. |
| Subject to determining or proving the intent of the suspected abuser. | Some workers were reluctant to confirm abuse if the abuse was unintentional. They didn't want to "blame" the abuser for accidental injury to the victim. However, CA felt that APS needed to capture the fact that the victim was harmed. |
| Dependent on identification of the abuser. | In line with the above principle, CA felt that APS needed to capture the fact that the victim suffered harm even if the perpetrator was unknown and regardless of their relationship to that perpetrator. |
| Subject to the county's or agency's political issues. | Workers sometimes feel pressure to make a finding based on who made the report and what they want done (for example, the local mayor's office wants the situation "fixed".) This should not be a factor in making a finding. |
| Influenced by possible repercussions for a suspected abuser as a consequence of the finding. | Workers may not want the perpetrator to lose their job or be arrested because of a "mistake". These types of repercussions should not be a factor in making a finding. |
| Influenced by the possibility of a future abuser registry. | CA does not have a perpetrator registry but added this principle based on the experience of other states where confirmation rates have declined once a registry was put in place (National Adult Protective Services Association, 2018). |
| Influenced by law enforcement's response to the finding. | Workers stated that in some jurisdictions law enforcement would only investigate criminal allegations if the allegations were confirmed by APS. This should not be a factor in determining findings, especially if all elements needed to confirm the case are not proven. |

Guidance on Findings

| California Guiding Principles | Rationale for this Principle |
|---|--|
| When capacity is in doubt, get an expert opinion, if possible, but regardless create the service plan as if the client lacked capacity. | Workers wanted direction on whether to go forward as if the client has capacity or to be ready to put in services based on lack of capacity when capacity is in question. CA decided that they should have a plan in place to protect the client if the client was found to lack capacity. |
| When capacity is in question, and the worker has no psychological testing results, a worker should not make an unfounded finding. | The worker needs to look at the facts related to the case and arrive at a finding based on the essential defining elements of the type of abuse in questions, regardless of the apparent consent of the client to the harmful action. |
| Workers should document the specific reasons that led them to their findings, not just state their conclusions. | Specific documentation is needed to back up a finding. The documentation must outline specifically how the worker came to their finding. |

| California Guiding Principles | Rationale for this Principle |
|--|---|
| Workers' synthesis of the information could result in a confirmed finding even if that finding conflicted with some of the information gathered. | This guidance acknowledges that sometime the worker has conflicting information but, if there is enough credible information, the allegations can still be confirmed. |
| While gut feelings or instincts are often indicators that something is wrong, a finding should not be made on gut feelings alone with no evidence to support it. | Another way to say this is that workers need to listen to their gut but follow-up with evidence, however, a gut feeling alone is not enough. |

Guidance on Information Gathering

| California Guiding Principles | Rationale for this Principle |
|---|---|
| In general, believe the client especially when he/she recounts or describes abuse suffered. However, a caveat to believing the client is when the client may be trying to protect the suspected abuser or is being unduly influenced by the suspected abuser. | Workers are often conflicted about whether to believe a client's statements. This guidance helps them to understand the factors that need to be weighted in making that decision. |
| Approach the investigation and assessment with an open mind. The social worker's personal beliefs and attitudes about what is in the best interest of the client cannot interfere with the findings of an allegation. | When gathering evidence, workers need to overcome their own biases and look for information that proves or disproves that the abuse occurred, or likely occurred. |
| Where possible, evidence should be gathered from more than one source. | Gathering information from multiple sources ensures that the information is not biased by one source's opinion. |

Types of Evidence

| California Guiding Principles | Rationale for this Principle |
|---|--|
| <p>Types of evidence include:</p> <ul style="list-style-type: none"> ▪ Client statement ▪ SW direct observations ▪ Physical evidence, e.g., injuries, cluttered home, no utility service, etc. ▪ Corroborating evidence, e.g., witnesses, physician records, documents, etc. ▪ Circumstantial evidence ▪ Unobserved/3rd Party suspicions ▪ History, e.g., prior APS reports, police records, incidents with same perpetrator, patterns of covering up abusive situations, etc. | <p>The guidance provides this list of possible sources of evidence to help workers think through where to look for proof that the abuse did likely or unlikely occur. This list corresponds with the information provided in the Voluntary Consensus Guidelines.</p> |

Finding Standards

| California Guiding Principles | Rationale for this Principle |
|--|---|
| Findings are a combination of both judgment and a reasoned approach. | CA acknowledges the role of social worker judgement in the process of determining findings. |

| California Guiding Principles | Rationale for this Principle |
|---|--|
| <p>They are based upon the facts/information gathered by the APS worker that are related to the essential elements of the abuse alleged, and the evaluation of those facts by the APS worker using his/her expertise, experience, and training.</p> | <p>These are the steps to making a finding- gathering facts about the essential elements of the abuse (more about this in the matrix) and evaluating facts.</p> |
| <p>As a general rule, the following standards should be used when determining findings:</p> <p>Confirmed = the information gathered must reasonably support all of the essential elements of the alleged abuse or neglect.</p> <p>Inconclusive = the information gathered reasonably supports only some of the essential elements of the alleged abuse or neglect.</p> <p>Unfounded = the information gathered reasonably refutes the essential elements of the alleged abuse or neglect.</p> | <p>These are the specific standards that CA decided upon for each findings type and make it clear what is required to categorize the allegations as Confirmed, Inconclusive, or Unfounded.</p> |
| <p>Confirmed and unfounded findings require information to support them. When the worker is unable to gather sufficient information to reasonably determine if the abuse likely happened or not, inconclusive is the appropriate finding.</p> | <p>This guidance explains what to do when the worker cannot get the information needed to make a finding.</p> |
| <p>Exceptions to the general rule: Because of the complexity and uniqueness of abuse and neglect investigations, exceptions can and do happen. When that occurs, the worker should consult with his/her supervisor.</p> | <p>CA allows the worker to override this guidance in consultation with their supervisor.</p> |

The information from the Guiding Principles is intended to be used in conjunction with the Consistency in Findings Matrix.

The California Consistency in Findings Matrix

The California Consistency in Findings Matrix outlines standards to improve the consistency of how cases are approached and understood. It is comprised of five sections:

1. Abuse or Neglect Category
2. Operational Definition
3. Essential Defining Elements
4. Evidentiary Issues to Consider
5. Signs of Abuse/Neglect Type

The first section is the **Abuse or Neglect Category**. Each maltreatment type that is investigated by APS in the state has its own section. California investigates Physical Abuse, Sexual Abuse, Financial Abuse, Neglect, Self-Neglect, Psychological Abuse (Mental Suffering), Abandonment, Isolation, and Abduction.

Each maltreatment type is listed on the matrix with this corresponding code section. In the case of California, the code section is the [Welfare and Institutions code section](#).

The second section is the **Operational Definition**. These are the definitions for each maltreatment type as defined in APS policy. For example, the operational definition of physical abuse in California is “the non-accidental use of physical force that results or could have resulted in bodily injury, physical pain, or impairment.” The various definitions of maltreatment can be found in the [Adult Protective Services Manual of Policies and Procedures](#).

The third, and arguably the most important, section is the **Essential Defining Elements**. This section dissects the operational definitions and lays out each element that must be proven to confirm the abuse allegation.

The essential definition elements for physical abuse in California are:

- Non-accidental use of physical force or physical deprivation or use of medications for control;

and

- Bodily injury, physical pain or impairment occurred;

or

- Bodily injury, physical pain or impairment could have occurred.

Based on the California essential defining elements, if the bodily injury was the result of *accidental* use of force, the worker would not confirm the abuse since one of the defining elements is missing. Please note that these defining elements are based on a civil code and may not match the defining elements in the criminal code. Therefore, a confirmed abuse allegation for APS does not automatically translate into a viable criminal case.

APS workers often think in terms of a more global definition of the various maltreatment types based mainly on whether or not the client experienced harm. Laying out the essential defining elements helps all APS staff use the same standard for determining whether the abuse likely occurred. If used consistently, two different workers presented with the same fact pattern and evidence should come to the same determination.

The fourth section is the **Evidentiary Issues to Consider**. This section gives the worker guidance, specific to the maltreatment type, as to what information to collect and consider when making a finding. For physical abuse, California’s guidance is:

Exhibit 1 – California’s Guidance for Physical Abuse

Examples include, but are not limited to:

General Considerations

- What are the indications, if any, that the client is being or has been:
 - Hit, beaten, pushed, shaken, slapped, or kicked
 - Struck with or without an object
 - Given unwarranted drugs
 - Unreasonably physically restrained when not medically authorized or given medication inappropriately to limit mobility or consciousness
 - Force-fed
 - Deprived of food or water for a prolonged period or continually
- Based on the location, appearance, type of injury (or pain/impairment), interviews and explanation, was it likely accidental or intentional?
- Are there power and control issues in the relationship between the suspected abuser and the client?
- Is there a need for a safety plan?
- Are the client and suspected abuser known to APS because of prior reports?
- Is law enforcement investigating this as a crime, e.g., assault, battery?

Client Considerations

- Is the injury the result of a normal part of aging or disease process?
- Is the client taking any medication that would make him/ her bruise easily, such as prednisone, warfarin, or Plavix?
- Is the client cognitively impaired?
- Does the client use an assistive device for mobility?
- Does the client require assistance with ADLs?
- If the client is bruised, does he/she remember how he/ she got the bruises?
- Are the suspected abuser’s and the client’s explanations about how the injury occurred consistent with one another?

This section of the matrix is in alignment with the information in the Voluntary Consensus Guideline that APS programs gather evidence during the investigation *“through interviews with the client, the alleged perpetrator, and other involved parties, and through review of relevant documents and records”*.

It also outlines the types of evidence to be gathered including:

- client statements,
- direct observations,
- physical evidence (e.g., injuries, cluttered home, no utility service),
- corroborating evidence (e.g., witness statements, physician records, other information),
- circumstantial evidence,
- unobserved/third-party suspicions, and
- client history

(Administration for Community Living, Updated March 2020, p. 38).

The last section is **Signs of the Abuse/Neglect**. Signs differ from evidentiary issues in that they suggest potential abuse but need further investigation to determine whether they are actual indicators of abuse (an example would be a client with decubitus ulcers may have received poor care). Decubitus ulcers can occur even with good care under certain conditions. The worker needs to ask follow-up questions to determine whether the client’s physical condition makes decubitus ulcers likely and whether ulcers could have occurred even in the presence of a good care.

These sections taken together, and informed by the guiding principles, help workers focus on the information they need to gather and provide a structure for evaluating the relative strength and

integrity of that information. When used on all cases, the resulting findings should be much more consistent across workers and APS offices.

The full California Consistency in Findings Matrix is in the appendix of this brief and can also be accessed on-line at the [County Welfare Directors Association of California](#).

Adaptation by Other States

Since its development in California, four other states are known to have adapted these protocols. Idaho and Montana developed versions for their states internally. Versions for Nevada and North Dakota were developed by the National Adult Protective Services Association (NAPSA) in conjunction with New Editions Consulting, Inc. under a contract with Administration for Community Living. All of these states were contacted for this brief and asked the same questions about the process of adapting and using this protocol within their state.

What motivated your state to adapt the Consistency in Findings model?

Robin Tejada (Social Services Program Specialist 3) and Tammy Sever (Social Services Chief 2) of Nevada APS said that, during their quality assurance (QA) reviews, they were seeing individual workers coming to different conclusions when presented with virtually the same fact pattern. These differences seemed to be somewhat regionally based. So, adopting the Consistency in Findings protocol was an outgrowth of their QA process.

For Michael Hagenlock (APS Bureau Chief) of Montana, adopting the Consistency in Findings protocol was more about removing personal opinions from the determination of findings. The goal is to identify and document the factual evidence to drive the conclusion for their findings. Hagenlock feels that law enforcement is more likely to take on APS cases if the process is standardized and the

findings are based on provable facts. However, Hagenlock is quick to point out that evidence to support an APS finding is not interchangeable with the evidence needed to bring charges in a law enforcement case. These investigations need to be done independently.

Deedra Hunt (State Manager) from Idaho stated that she had seen problems with a lack of consistency in APS investigative determinations between the services regions in Idaho so, when she saw the California protocol presented at a conference in 2013, she felt that it would be helpful for her APS staff.

Michelle Gayette (Aging Services Assistant Director) of North Dakota had never seen the Consistency in Finding protocol until it was presented as a potential technical assistance product, but she immediately recognized its potential to help her workers make case decisions.

What was most challenging about adapting this model?

Sever of Nevada was quick to answer that the biggest challenge was conceptualizing the terminology used in California, adapting it to Nevada terminology and then making sure that all the information was consistent with Nevada policy. For example, the definition of sexual abuse is different in Nevada than in California. Nevada law requires physical touching whereas California law includes nonphysical acts such as being forced to view pornography or being photographed nude. There are also policy differences in that law enforcement takes the lead in investigating sexual abuse in Nevada and APS provides the social service role.

Hagenlock from Montana indicated that getting the appropriate code sections into their version was a challenge. Hagenlock worked with his attorney general to ensure that the correct codes were used. Montana also had to include the requirement that

the abuse was found to be intentional. Happily, adopting the Evidentiary Issues to Consider did not require editing as these were consistent with Montana policy.

For Hunt in Idaho, the biggest challenge, by far, was the fact that APS operates under both the APS regulations and the Older American's Act codes in her state. She had to include both codes in her operational definitions.

Gayette of North Dakota said that having NAPSA provide technical assistance to do the heavy lifting made this a pretty easy process for her state.

How did you roll out the model to staff? Did you provide training?

Sever from Nevada indicated that the Nevada APS program provided training at an All Staff meeting to get everyone started. The protocol was then added to the Nevada policy manual and now all staff are expected to use the tools, including supervisors when they review cases.

Montana vetted their tool through APS legal counsel and the state attorney general. After that, Hagenlock brought the tool to the supervisors and walked them through it. The supervisors initially thought it was very long, however by using many examples, Hagenlock was able to convince them of its effectiveness. Then it was rolled out to staff. Hagenlock had staff review some cases with and without using the matrix (and without knowing the actual findings). He stated that it was eye opening for staff – the rate of consistency was much better for cases when the matrix was used.

In Idaho, Hunt provided training with APS in a monthly staff meeting in 2012 and at least twice since then. However, since she does not directly supervise staff, she is not able to ensure its use.

Are you tracking the results of using the Consistency in Findings model? If so, can you share what you have learned?

Nevada was the only state interviewed that is tracking the results of using the Consistency in Findings protocol. Tejada stated that the Nevada QA team reviewed 120 closed cases for findings before the matrix was introduced and then, six months later, they reviewed 120 cases that were completed after the training. They found a 10% improvement in consistency.

While not tracking the results of the use of the Consistency in Findings protocol, Montana APS workers are now being audited for documentation of the evidence supporting their findings. If workers confirm the abuse, they are required to staff the case with law enforcement to get those cases prosecuted. According to Hagenlock, APS workers are getting better about doing this.

In Idaho, supervisors are reviewing cases using the Consistency in Findings Matrix before they send cases to law enforcement, but no data is available.

What recommendations do you have for other states?

According to Tejada in Nevada, "It's a helpful and worthwhile tool! Take the time to make one as you really will see improvement in your cases." She noted that supervisors are using it at case closure, and it makes reviewing cases for QA much easier. Just recently, she caught an error during QA where an accidental injury was substantiated as abuse even though Nevada law and the matrix says abuse must be intentional.

Hagenlock in Montana said that "States need to take a look at this and adopt it." According to him, states need to get their elder abuse task force on board as well. He recommends that administrators keep referring to the matrix in meetings with staff. And, he

says that managers must be ok with not confirming the abuse when all the evidence is not there. Hagenlock suggests thinking of the Consistency of Findings protocol as a great tool to remove emotions from the investigations.

Hunt of Idaho said, "I like the matrix and plan to stay with it". Even though she had to use both the Older American Act definitions and the Idaho code in the matrix, she has made it work.

Gayette of North Dakota said, "Using the matrix has helped North Dakota be more consistent statewide in their findings on APS cases. Educating staff and sharing the matrix seemed to help them to "speak the same language" and look at substantiation in the same way."

Training is Essential

As noted in the comments from the four states that adopted and adapted the Consistency in Findings protocol, continual training is essential to seeing improvement. In California, the workgroup collaborated with the San Diego State University, Academy for Professional Excellence's APS training project (now called Adult Protective Services Workforce Innovations or APSWI) to create online trainings to deliver statewide once the protocol was developed. The trainings, *California Adult Protective Services Standards for Consistency in Determining Findings - Part 1: Introduction and Guiding Principles* and *Part 2: Findings Matrix*, are currently under revision and will be rolled out later in 2021. Without ongoing training, newcomers to the field may not know to use this tool to inform their findings and older workers may forget to refer to it. When this happens, the benefits of the tool become lost.

Other Variables That Impact the Determination of Findings Nationally

While the Consistency in Findings protocol is a good first step on the road to accurate case findings and a

better understanding of prevalence rates, it does not address all the factors that can impact case findings. The 2016 journal article by Dr. Laura Mosqueda (Mosqueda L., 2016) cited numerous studies that found other factors that impact prevalence rates, including a multistate data study that showed substantiation ratios increased when investigators did only APS investigations rather than both APS and child welfare investigations. Other factors correlated with higher substantiation rates included higher educational requirements for staff, more formal training and worker attitudes. As an example, workers with a social worker degree had higher substantiation rates.

On Page 38-39 of the Voluntary Consensus Guidelines, Item 4A lists elements of a standardized practice for collecting and analyzing information to determine whether maltreatment has occurred. Of particular note are the following recommendations:

- APS workers are trained on and have a clear understanding of the definitions of case findings (e.g., “confirmed,” “unfounded,” or “inconclusive”).
- The worker has been trained and is competent to investigate the particular set of circumstances described in the report (e.g., he/she has received training on working with nonverbal clients, with clients with intellectual disabilities, with clients who have mental health issues, with residents of institutions, or with minority populations).

Conclusion

Clearly the states that have adopted the Consistency in Findings protocol believe it has helped their workers make accurate decisions about whether or not maltreatment has occurred. The protocol aligns with Voluntary Consensus Guidelines for Adult

Protective Services, and it appears to enhance a state’s quality assurance program. While this one protocol alone will not allow states to provide accurate prevalence rates for maltreatment, it is an excellent first step on the road to consistent case findings.

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