# Transcript for Elder Sexual Abuse in Care Facilities: Detection, Response, and Prevention Part 2

**Believe and Report**

**Lynn Gerard:** We always believe the resident when they tell us that something has happened. It's particularly important that we not argue with our patient when they're telling us something, that we accept at face value what's been told and we immediately get help for that resident.

**Kalease Smith:** We start by believing victims and it's up to law enforcement or whoever to do an investigation to say it's not true or that it didn't happen but our role as advocates it's always, always to believe victims.

**Tara Patet:** If a resident tells you that they've been sexually assaulted or abused don't discount it simply because they have a diagnosis of dementia. Doing that sends a really powerful message to the victim that their safety isn't being cared for, that they're not being believed and worse, perpetrators are left completely unchecked and are able to continue abusing not only that victim but other people as well.

**Lynn Gerard:** There was a report filed with the Minnesota Department of Health where sexual abuse was substantiated just in the last six months and what they did find was that the abuse happened with one resident and as soon as they found that one resident there were a second, a third, and a fourth.

**Cheryl Hennen:** The Vulnerable Adult Act of Minnesota includes provisions that state if you are employed by a licensed provider, you are a mandated reporter. A mandated reporter must report any suspected abuse, neglect or exploitation. It's the law and there are penalties, possible criminal charges that can be brought against someone who had the responsibility to report but did not report.

**Sgt. Chad Turcotte:** You have to remember that you, as a caregiver are mandated reporters. You have to report any, any incident that you believe maybe harmful or neglect or abuse of a vulnerable adult. With that comes protections for you that you can't, there can't be retaliations against you for making a mandated report.

**Cheryl Hennen:** It's possible in a long-term care facility such as a nursing home that someone who is working in dietary for example, in the dining room, they see something happened. They may think that's not my job. Housekeeping may see something that doesn't look right, it doesn't matter where you are in the hierarchy if you will of a long-term care facility, as an employee, if you see it, report it.

**Linda Walther:** So the first person who discovers the potential sexual assault needs to make a mandated report as well. So in the hospital, we often will have the social workers make their report. They often have information that we don't necessarily have. I think that's really important because all of these things are pieces of a puzzle and it helps law enforcement and prosecutors be able to build a case.

**Cheryl Hennen:** Do not assume that if you do not report someone else will do the reporting because someone else must have seen that happen.

**Tara Patet:** It's also not unusual for a victim to not want to have something reported to either deny it altogether or to say it happened but really be insistent that it not be reported. Your obligation, however, attaches either way. Even if a victim doesn't want the case reported, you have to do so.

**Ellen Johnson:** You won't have a leg to stand on if you don't make a report when it's your responsibility to report. If somebody else says that they've reported at their facility, that's great, that's their responsibility, but you also have to make a report.

**Chad Turcotte:** It protects you because you're following state statute, also because you're reporting it, you're not trying to cover up an incident. What happens is many cases if it's not reported and then we come in and look later on when it is, it's like well, why didn't you report this? You knew it was going on. And in our eyes, it's like why, why wouldn't you report it? You're a mandated reporter. So are you involved in this and now you're a suspect of abusing a vulnerable adult.

**Frank Weber:** I always think of this way. What side do you want to be defending in court? Do you want to be the person who's saying okay, I suspected abuse but I didn't say anything, which is actually a violation of the law? Or someone who's saying okay, in the best interest of the client, I reported this, I didn't know that abuse was occurring, but I felt something wrong was occurring and I felt like I needed to say something to somebody about.

**Lynn Gerard:** I would rather that I investigate 99 times and find out nothing happened than to miss that report where something really happened.

**Chad Turcotte:** So if you really believe in caring about them, it's in your best interest to report that. It, it goes hand in hand if you care about them, you want to report it so then that way they are protected. And that's our main goal. By doing the MARARC report and notifying law enforcement, you are protecting them.

**Tara Patet:** If a resident tells you that they have been sexually abused or assaulted, it's important for you to just make a report. Don't do any further investigating, don't ask further details of the victim, don't do your own investigation, just make a report.

**Ellen Johnson:** Don't think that you have to prove something is wrong. You just have to have a suspicion and then you follow up on your suspicion. That is going to provide safety for the patient as well as the institution.

**Cheryl Hennen:** If you see or suspect sexual assault of any kind, immediately call 911. Beyond that, make sure that you follow your state and facility reporting policies and procedures.

**Chad Turcotte:** In 2016, Pequot Lakes Police Department was called to a sexual assault at one of our facilities in town. Officers responded. And in this case, the staff member had walked into a room, the door had been closed, they walked into the room, found another male staff member standing over a female in a fetal position on the bed, the staff member had his pants down and underwear down. The male staff member jumped off the bed, pulled up his pants, and pretended like nothing happened. The caregiver that saw this was the one that had reported it. Unfortunately through the interviews, what was discovered was after the female staff member walked in the male staff member standing over this vulnerable adult, that staff member was allowed to walk freely throughout the facility and had actually gone back, cleaned up the female victim, changed her underwear, changed her nightgown, changed her linens on the bed, and threw them all in the washing machine. Then that staff member was sent home and other staff members were directed to go in there and clean up the victim as well, which really hampers our response and DNA collection from the female victim.

**Tim Wendler:** If too much time passes, we again look at where it's possible to lose some of that evidence, pieces of evidence that you know may have been there are now gone. We can't find them. Sometimes the evidence just deteriorates in itself. So there, there's a lot of crucial pieces there that need to, you need to be able to work through right away.

**Chad Turcotte:** I believe that the, the people didn't realize what they were doing, they didn't realize what had just actually happened, they may have been in shock to, to think that hey, somebody in Pequot Lakes committed a sexual assault on a vulnerable adult. It's a tight-knit community where everybody knows everybody. I think it was that disbelief that it can't happen to me, it can't happen here, it can't happen to somebody that I care for, so people just went to, to do what they believed was in the best interest of the, the victim in this case.

**Tara Patet:** It's important that you not wash the bedding, it's important that you not give the victim a bath or a shower, it's important that you don't remove any of the victim's clothing. Essentially, don't touch anything, don't move anything, and don't allow others to come into the area where the crime may have occurred.

**Chad Turcotte:** When law enforcement responds to a crime scene, we have to look at what we see. If we get there and the crime scene has been altered or things moved around, we have to investigate was this intentional or not. Was it intentional with ill intent, i.e. somebody trying to cover up a crime scene and prevent the discovery of DNA in, in our case? Or is this somebody with good intent trying to care for the, the victim and accidentally destroying evidence?

**Tim Wendler:** It's always a good thing for staff to leave the room, leave things the way that they are. Don't disturb anything. That makes it harder to hold people accountable. It also inserts your evidence, your DNA, your fingerprints, things like that in that crime scene. Obviously, take care of the victim if, if, if that's necessary, but don't try to help by cleaning up things. You're actually hindering the investigation greatly by doing that.

**Chad Turcotte:** Caregivers, they're loving in nature, they want to help, and after a crime has happened or somebody's been assaulted, they want to go and help that person. They really do. But you have to resist that urge to go in there and change them or, or move something until after law enforcement gets there.

**Tim Wendler:** I would always encourage people to call 911 right away, take care of that first, get law enforcement there to process, do what they need to do with things. You don't want to delay that law enforcement response.

**Lynn Gerard:** It's essential that we contact law enforcement before we may lose critical components of that investigation.

**Tim Wendler:** So as an investigator, my initial approach on, on the crime scene, I'm going to take pictures, initially take pictures of the starting at the outside of the room and work in a circular motion through that. I, I will most likely then take and document it with a video as well and narrate the video, point out to extra pieces of maybe clothing or pieces of potential evidence that may be scattered or thrown around the room, and from there, obviously we all have our gloves on because we don't want to disturb the evidence, put our DNA on there and we go through and we mark and package the evidence.

As an investigator, this is not how we would like to see the potential evidence boxed up, the bed made, the room cleaned. Let's talk about how we would like to see potential evidence.

This is the way that we want to see this potential scene that we have. This is undisturbed crime scene. Nothing has been touched by any staff, we have the bed, we have the linens that are pulled back, we have clothing, a lanyard, other pieces here that all of that can be potential evidence. All evidence will go in paper bags. Do not put it in plastic bags. Paper bags lets the evidence breathe. When we have DNA evidence in there, whether it be blood, body fluids, things like that, if it's in a plastic bag, it can disintegrate, it can erode the evidence, it can become moldy at times, so it makes it unusable. That's why we always put it in paper bags.

In the garbage, there's possible evidence in here, whether it be DNA evidence, something that just isn't quite right in here, empty condom wrapper. Both of those are very valuable pieces of evidence. The pop bottle, maybe that's out of the ordinary. That might not belong in there, the resident does not drink, that type of pop, or cannot ever have that type of pop in there or soda or whatever it is in the bottle. Things like that, those are the pieces of evidence that we want to be left exactly where they were at.

Over here we have a cup that's tipped over, an empty pill bottle that's here, the help button seems to be very out of place for our victim to reach it over here.

If there's, you know, certain things like any type of a cord or something, the pull cord, the, for help, if that's moved away so that it would be hard for a resident to access that, things like that.

There's possible pieces of evidence on the floor here, as in the phone cord appears to be unplugged for the phone. There's a paper towel down here that's crumpled up. There's a piece of string, an empty pill bottle cap.

In some of these investigations, sometimes the, the perpetrator will facilitate extra medications that may be narcotics, opiates, controlled substances in order to render their victim helpless. So, so when we process the crime scene and we find medication bottles in there or medications that the counts don't match up, so you look at the bottle count on there, if it says 90 pills and it was just refilled, the refill date was two days ago and there's five pills left, that's a clue there that there's something else going on here.

Potential pieces of evidence that could contain DNA evidence could be the doorknobs, the lock button, front and back side of both of these, and that pertains to any doorknobs, door latches in the room itself.

Over here, we look at the drawer is open, an open pill bottle in there. There's a decoration that's tipped over.

We have a camera up here, so it's very imperative to preserve that evidence that could be on there and turn it over to law enforcement immediately.

**Tara Patet:** One thing you can do to assist law enforcement is to make sure that you retain any surveillance video that may exist, not just from the victim's room or from where the crime occurred, but anywhere adjacent to that, the hallways, the entrance to the facility, anywhere where the victim and perpetrator may have been. While the video may not have captured the crime itself, it can still be used to place the perpetrator in the facility or in close proximity to the crime scene.

**Tim Wendler:** So here I am in the bathroom. Potential pieces of evidence could be the paper towel, the clothing on the floor, the pull cord for help cord is pulled way off to the side that's pushed back behind the toilet. There's paper towels thrown in the garbage can, appears to be an incontinence product thrown in here. The handles along with the toilet and anything else in here, including the light switch, the plastic bags, the side molding of the door here could be potential pieces of evidence.

There may be more than one crime scene. This may, evidence may have been transferred out to a different room, to a different maybe a break area, to maybe to another resident's room. Those are things we also have to look at as well.

**Chad Turcotte:** When law enforcement arrives on the scene of alleged crime, what they'll do is they're going to come in there, they're going to talk to a staff member initially, find out where's the room, what was recorded, what do they know. We're going to go into that room and depending on the, the resident's condition, we may talk to them if they're able to carry on a conversation or we may not.

**Tara Patet:** Because of the trauma associated with sexual assaults, it's important that you not engage in any kind of lengthy questioning of the victim. It's important to let law enforcement or someone else who's trained in trauma-informed interviewing to conduct those interviews and get that more detailed information.

**Chad Turcotte:** So it's more of an impartial interview that's very important when it comes to prosecuting these cases to have a jury and, and the attorney's office be able to say this was an impartial interview, there's no leading questions, it was conducted in the right manner, as opposed to a caregiver perhaps posing a question in a leading manner to where it, it's thrown out in court.

**Tara Patet:** In some cases, we are able to use the statements that a victim's made to law enforcement as we are presenting our case to the jury. For that reason, it's important that law enforcement not only go out and conduct a thorough interview of the victim, but also make note of the victim's demeanor as he or she is telling the story of what's happened.

**Chad Turcotte:** Just like with caregivers, they receive training in certain aspects of their job and, and what they do. And a police officer wouldn't be qualified to do a lot of what a caregiver does and the same idea holds true with obtaining that interview or statement from the victim. It's very important to have a trained law enforcement officer take that interview from the victim as opposed to a caregiver.

**Ellen Johnson:** I would just never write off somebody that has dementia as being unable to provide quality, good information. They may not be able to provide all of the information you want but it's the skill of the questioner and being able to tie together all the facts of the case and that's the job of the investigator that will help determine whether or not an assault occurred or not.

**Caring for Survivors**

**Linda Walther:** So law enforcement is responsible for the scene. So the pati- - the resident's room or wherever the assault may have taken place. And then the SANE nurses or the nurse in the hospital, we're, we're responsible for the patient and taking care of their body and collecting that potential evidence from their body.

**Ellen Johnson:** So a SANE nurse, sexual assault nurse examiner, is somebody with special training. It involves a 40-hour course, either an in-person or an online course. You learn a lot about what happens to an individual, their, their psychological, emotional response to sexual assault.

**Linda Walther:** So the course teaches us to be able to interview the patient, be able to do that in a trauma-informed way so that we're able to get as much information as we come from the patient. Then we do a head-to-toe exam, looking for injuries, photographing any injuries, looking for any areas where we might want to swab, looking for potential body fluids from another person, and then, and doing any documentation.

**Ellen Johnson:** Patients will come to us with family members, they may come by ambulance, they may come by themselves, but typically they come with somebody, and then they check into an ER.

**Linda Walther:** So we would like people to come without having been bathed at all, not having been given anything to eat or drink so that there's that potential we could collect those swabs from their mouth. So we wouldn't want them to give medications to them before they came, not to give them any food, leave them in the clothing that they were wearing at the time.

**Ellen Johnson:** Send the things that you normally send, send their medication list, their list of chronic illnesses, their contact information, who is their next of kin, do they have a guardian, do they have a medical decision maker.

**Linda Walther:** And then we need to know who to talk to back at the facility so that when we send them home or send them back, we will have a person that we can call and give a report to.

**Ellen Johnson:** And a lot of times, we take pictures of them in their clothes. Most times, we take pictures of them in their clothes. Just as a snapshot in time, this is how I saw them, this is how they came in.

**Linda Walther:** When the patient comes to the hospital, we often will collect their clothing because clothing can be a great piece of evidence for us to collect because if the body fluids dry on the clothing and they can be stable for a long time. So when they go back to the, to the facility that they came from, we have clothing that we can give them so that they don't have to go back without any clothing.

**Ellen Johnson:** Sometimes it helps to have a familiar person with the patient. So we may have a staff person, we may have a family member. Normally when we're doing a medical forensic history, we don't want anybody in there other than an advocate.

**Kalease Smith:** Our role as advocate in that room is just to support the victim. I just come in and say hi, I'm Kalease from SOS, I'm your advocate, and I'm here to support you, and usually when I say that, they go oh, you're here just for me. And I said yes, just to support you. And so that kind of starts the bonding and the relationship.

**Ellen Johnson:** We're going to explain what we do, what we can offer, and we obtain consent.

**Linda Walther:** And then it's important for us to know who is able to give consent for us to do the exam because oftentimes, the patient will, can give us consent once we've explained what we want to do, but if they can't give consent, then we need to have their whoever gives their medical consent.

**Ellen Johnson:** So after we have consent, we get a history, and this can take a fair amount of time, depending on the condition of the patient, depending on their cognitive ability, and we ask a prescribed set of questions to try to figure out what the patient has experienced. Each patient we're going to treat a little bit differently, depending on their ability to speak. After we get a history to the best extent or limited extent, depending on ability, then we're going to do a physical exam.

**Linda Walther:** We're looking for injuries on their body, any bruises or, or scratch marks, things like that, that we see consistently with patients, and then when we're doing our genital exam, they're really common kinds of injuries that we see when they're sexual assault.

**Ellen Johnson:** One thing to keep in mind as far as injury is concerned, if there is presence of injury, that does not mean that for sure somebody is sexually assaulted. There could be injury for another reason. But on the flip side, if there is no injury, that also does not mean there wasn't a sexual assault.

**Linda Walther:** An exam can take anywhere between three and four hours, so they may be there at the hospital for a while and miss medications. So knowing if they're on blood thinners can be really helpful for us because that can help us interpret the injuries that we see.

**Ellen Johnson:** I'm going to collect swabs as I go in areas that I think could have foreign DNA. And if a patient isn't able to give a very good history because of their cognitive ability, we're going to broaden that swab taking because they're not able to hone it in to one location or two locations.

**Linda Walther:** And it only takes a few cells to be able to identify a person's DNA profile from those swabs, so it's very important that we see the patient as soon as possible with as little as possible being done to them.

**Ellen Johnson:** Whenever we do a forensic exam, sooner is always better. But we're not talking about minutes. We're talking about hours. So certainly, if, if a delay of 45 minutes, an hour, two hours, that is not a big deal. There are very few patients that get to us that early.

**Linda Walther:** Our SANE program collects evidence from patients up to 10 days potentially after an assault, but in the first few days we're going to be able to collect the most evidence. Usually as the days go by, we're less and less able to collect.

**Ellen Johnson:** Don't assume that you are too late. More often than not, you're in plenty of time. I think more people think that an exam needs to be done within a day or a few hours, that's not true. We have quite a few days to do this.

**Linda Walther:** Law enforcement and SANE nurses work really well together. We can share information back and forth, which can be really helpful, especially in a situation like this where law enforcement will maybe first to arrive at the facility and they may have an idea of what was done to the patient and they can let us know so that helps us kind of fine tune our exam. And then we share any information with them as well like as soon as we're done with our exam, we will give them a copy of our medical report. Our reports are generally anywhere between 8 and 10 pages long.

**Ellen Johnson:** Not every city in the state is served by a SANE program or has access to a SANE. A SANE is the best level of care, a forensic nurse is the best level of care for doing a sexual assault exam. Know your area, know the services, know the capabilities of your local hospitals.

**Frank Weber:** After a person has been a victim of abuse, there's a lot of resources available. One of the best resources is counseling just to get them an opportunity to talk to someone out the, outside the facility. I also think it's really important the way the whole facility handles the abuse.

**Dr. John Brose:** If I were to create a protocol on it, it would be for that facility staff to talk to the hospital staff, who now know the current functioning of that person, and having a discussion about should we have him or her come back, should we have them go somewhere else.

**Frank Weber:** Even if a client has dementia, it's important that they're involved in part of the decision making or their family is involved in the decision making because the routine becomes very important. Taking someone out of their routine may enhance their fearfulness and may create significant anxiety.

**Dr. John Brose:** Because in situations going back could be staring at the quote unquote crime scene be very unnerving. To some people, they might want to go back because they have many friends there and they can isolate it that this happened but the overriding support I get from my buddies in the facility overrides it.

**Frank Weber:** Every victim is different, so it's important that they're involved in their, the follow-up plan following an abusive situation.

**Dr. John Brose:** Children, childhood sexual abuse, seems to have more support and, around how horrific it is because it is now quote unquote screwing them up for life. Whereas if somebody is older, well they've had a good life. If sexual abuse was going to occur at any age, do you think it would be awful at any age? I think most people would say yes. Then you can say at what age is it less of a problem? And have the open ended question. I don't think you're going to hear 90. I think what you're going to hear is all abuse is wrong. When you have people in congregate living, you're likely to have boundary violations because there is in congregate living inherent a power differential. When there's a power imbalance, abuse, neglect, and sexual exploitation is at a much higher probability of occurring. But if you can operate every day, I am the guardian, I am the voice, I am the eyes and the ears for all of the 100 residents in my building. If every staff took that motto and lived it every day, we would have much fewer incidences of abuse, neglect, or sexual exploitation.