



CITY OF GARDEN GROVE

August 28, 2012

Hon. Thomas J. Borris
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

William J. Dalton
Mayor

Dina Nguyen
Mayor Pro Tem

Bruce A. Broadwater
Council Member

Steven R. Jones
Council Member

Kris Beard
Council Member

Dear Judge Borris:

We have reviewed the 2011-2012 Orange County Grand Jury Report, "Elder Abuse: The Perfect Storm". Certainly, the treatment of our elderly citizens is of great concern to our individual communities, and society as a whole. After much deliberation and study with our Police Department command staff of the findings and recommendations set forth by the Grand Jury, we are pleased to forward to you our responses.

FINDINGS

F-3 Reviewing procedures in law enforcement agencies, law enforcement academies under Orange County government jurisdiction and the District Attorney's office could improve recognition of elder abuse.

RESPONSE

The City agrees with this finding. There is always room for improvement when investigating any type of abuse, including elder abuse.

Since 2005, the Garden Grove Police Department has provided specific training to ensure incidents of elder abuse are identified and handled appropriately.

On March 11th, 2005, the Garden Grove Police Department issued Departmental Training Bulletin #2005-06 titled, "Elder Abuse". The bulletin provided a brief description of the reporting requirements of alleged or suspected elder abuse. (*Welfare and Institutions code 15630*) This training bulletin also provides definitions of the various California Penal Code sections relating to Elder Abuse, (*C.P.C. 368*).

Included in this training bulletin were the contact numbers to the Adult Protective Services branch of the County of Orange Social Services Agency and examples of what behavior actually constitutes the different types of abuse, along with a list of bullet points to consider when investigating elder abuse.

On August 3, 2011, the Garden Grove Police Department issued a second training bulletin related to possible elder abuse. Training Bulletin #2011-11 discussed the federal reporting requirements of the "Elder Justice Act".

RECOMMENDATIONS

R-5 By December 31, 2012, the Sheriff's Department and city police departments should evaluate and update their programs on responding to elder abuse cases.

RESPONSE

- The recommendations of the Grand Jury have not yet been implemented, however they shall be by October 1, 2012.
- The Garden Grove Police Department will review and update (if necessary) Training Bulletins 2005-06 and 2011-11. The bulletins will be reissued to all members of the Police Department during the month of September 2012.
- Detectives will attend a briefing for each patrol squad. They will answer questions and offer guidance on investigating elder abuse cases.
- Arrangements for special units that do not normally attend patrol briefings shall be made; so all members of the department will be up to date in reference to elder abuse.

Sincerely,



William J. Dalton
Mayor



Kevin Raney
Chief of Police

GARDEN GROVE POLICE TRAINING

JOSEPH M. POLISAR, CHIEF OF POLICE
Professional Standards Division

NUMBER: 2005-06
ISSUED: 3/11/2005

ELDER ABUSE

Anytime an elderly abuse, 368 PC, report is taken or Officers Report/Related 368 PC report, you **must** report the incident of alleged or suspected abuse, or a reasonable suspicion of abuse, which comes to your attention both by telephone and on the "Report of Suspected Dependent Adult/Elder Abuse Form (SOC 341). (*Welfare and Institutions Code Section 15630*). The report should be made immediately to:

County of Orange Social Services Agency
Adult Protective Services
Adult Abuse Registry
(800) 451-5155
FAX: (714) 825-3001

Adult Protective Services (APS) provides services directed at remedying abuse or exploitation of adults who are unable to protect their own interests because of age or disability. Abuse of an elder or dependent adult includes any of the following: Physical Abuse, Neglect (including self-neglect), Financial Abuse, Abandonment, Isolation, Abduction, or other treatment with resulting physical harm or pain and mental suffering.

<p>Neglect Abandonment Deprivation of basic needs: water, food, housing, clothing, or medical care</p>	<p>Self-Neglect Unable or unwilling to care for self Unable or unwilling to provide for self Unable or unwilling to protect self</p>
<p>Physical Abuse Hitting or Pushing Causing unnecessary pain Intentional misuse of medication Causing Injury Unauthorized restraint</p>	<p>Sexual Abuse Inappropriate exposure Inappropriate sexual advances Inappropriate sexual contact Sexual exploitation Rape</p>
<p>Emotional or Verbal Abuse Humiliation Threats of harm or abandonment Isolation Non-Communication Intimidation</p>	<p>Financial Abuse Undue influence to change legal documents Misuse of property Theft or embezzlement</p>
<p>Victims are . . . Adults 65 years of age and over or Dependent adults 18-64 years of age who are physically, developmentally, or emotionally disabled</p> <p>Abusers MAY BE . . . Experiencing emotional, physical, or financial stress Related to the victim or Providing care to the victim Dependent upon alcohol or drugs Financially or emotionally dependent upon the victim</p>	

These are examples where APS should be called:

- 1) 74 year old female brought to hospital due to breathing difficulties. She is found with dried feces on her. She is living with her nephew but he isn't her caregiver, he just lives with her. The female is responsible for herself. *[Does not meet requirements of 368 PC but APS must be called]*
- 2) 76 year old female was left in a vehicle by her 74-year-old husband while he is shopping. The temperature was 88 degrees. She was transported to GGMC with heat exhaustion. Her husband stated he is the sole caregiver and his wife has Alzheimer's disease. He thought she would be okay in the vehicle.

Penal Code Sections:

368(b)(1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not to exceed six thousand dollars (\$6,000), or by both that fine and imprisonment, or by imprisonment in the state prison for two, three, or four years.

368(c) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor. A second or subsequent violation of this subdivision is punishable by a fine not to exceed two thousand dollars (\$2,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

368(d) Any person who is not a caretaker who violates any provision of law proscribing theft or embezzlement, with respect to the property of an elder or a dependent adult, and who knows or reasonably should know that the victim is an elder or a dependent adult, is punishable by imprisonment in a county jail not exceeding one year, or in the state prison for two, three, or four years, when the money, labor, or real or personal property taken is of a value exceeding four hundred dollars (\$400); and by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, when the money, labor, or real or personal property taken is of a value not exceeding four hundred dollars (\$400).

368(e) Any caretaker of an elder or a dependent adult who violates any provision of law proscribing theft or embezzlement, with respect to the property of that elder or dependent adult, is punishable by imprisonment in a county jail not exceeding one year, or in the state prison for two, three, or four years when the money, labor, or real or personal property taken is of a value exceeding four hundred dollars (\$400), and by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, when the money, labor, or real or personal property taken is of a value not exceeding four hundred dollars (\$400).

368(f) Any person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment in the state prison for two, three, or four years.

Caregivers

It is important to establish the Caregiver. A Caregiver is any person who has the care, custody or control of, or stands in a position of trust with an elder or dependent adult. Ask the potential suspect if they are responsible for getting the victim food, taking them to the doctor, and overall care. Just because someone lives with the victim does not make them the Caregiver, you need to establish this.

Things to consider:

- Think Child Abuse – would you leave a child in this situation?
- Photograph everything including the victim from all angles, the environment they are living in, and food supply.
- Check for food in the refrigerator and cabinets. If they say they're getting Meals on Wheels find out who delivers the food and when. Contact Meals of Wheels to verify.
- Find out if they have a Conservator. Contact the Conservators office at (714) 567-7660.
- Check all prescription bottles for names of the medications, date they were filled, pharmacy, and doctor's name. Complete a medical waiver for each doctor. Victims are sometimes taken to different doctors to conceal abuse.
- Document spontaneous statements such as, "my son hit me in the head with the phone." Look for the phone and document it's condition. Example: off the hook, broken
- Talk to neighbors. Ask them if something has changed about the victim since they've know them. Example: The gardener just moved it with her.
- Look for heirlooms/personal items that may be broken. Suspects will break these items as a form of mental abuse.
- If you have a dependant adult (ages 18-64) and they have been sexually abused consider using CAST for an interview (714) 940-4747.
- Check for additional locks on the victim's door, which may show they are being imprisoned in their room.
- Look for the telephone. Does it work? Does the victim has access to it in an emergency?
- If you take a 211 report involving an Elder make sure you photograph them. If the suspect is located ask them why they choose the victim. If they say "because old people are easy to rip off" or something to indicate they chose the person because of their old age, then you can add 368 in addition to the 211 charge. The photograph of the victim can be used it court to show that a reasonable person would know this person is over 65 years of age.

Crawford Decision

Evidence Code 1380 is unconstitutional

Victim must be available for cross-examination

Use of conditional exams

Must get cases to preliminary hearing quickly

Use of impeachment, refreshing memory, past recollection recorded

The heart of the ruling involves the difference between two kinds of witness accounts. The first, which is considered "testimony," or official accounts given to law enforcement, are forbidden

under the Crawford decision as a substitute for witnesses' appearing in court. Other statements, such as those relayed voluntarily to a doctor, a counselor, or even a police officer outside a formal interrogation, are still allowed, whether a witness gets on the stand or not. So are 911 calls. The decision virtually eliminates the use of videotaped statements in place of witnesses' appearing in court.

What does this mean to you? Spontaneous statements, excited utterance, and dying declarations will be admissible. However, the initial statement can be used if the person is unable to testify for trial; they are not testifying they are describing the event just happened. These statements need to be specific, "What happened to you," and "Who did it." Also, describe their demeanor and condition. You also need to state in your report when you received this statement from the victim in relation to determining the crime and the arrest of the suspect. Basically, it's up to patrol to get the details; don't rely on the Investigator since follow-up statements possibly cannot be used.

Prepared by Inv. Elaine Jordan

G A R D E N G R O V E P O L I C E TRAINING

Kevin Raney, CHIEF OF POLICE

NUMBER: 2011-11

Professional Standards Division

ISSUED: August 3, 2011

Reporting Suspected Crimes Under The Federal ELDER JUSTICE Act

There are new federal reporting requirements for long-term care facilities that provide care for residents with disabilities. These new requirements may result in more calls for service at these locations.

Certain individuals associated with long term care facilities, specifically "Intermediate care" facilities for people with developmental disabilities, are subject to new federal requirements with respect to reporting the "Suspicion of a crime" against a resident.

The stated purpose of the law is to assure that offenses against vulnerable residents residing in long term care facilities are promptly and appropriately reported and investigated. Under this law, covered individuals must report the reasonable suspicion of a crime to local law enforcement within two (2) hours of becoming aware of an incident of serious bodily injury, or twenty-four (24) hours with no serious bodily injury.

"Covered individuals" are defined as individuals who are an owner, operator, employee, manager, agent, or contractor of a long term care facility that in the preceding year received at least \$10,000.00 in federal funds. These individuals must report any suspicion of a crime against a resident to the local law enforcement agency. Each "covered individual" present in a long-term care facility who has a reasonable suspicion of a crime against a resident must submit a report to local law enforcement. In instances when multiple individuals develop the same reasonable suspicion they may submit a joint notice.

Covered individuals associated with intermediate care facilities will be providing the same report to an agent of the Secretary of the U.S. Department of Health and Human Services. They will also provide the report to the California Department of Public Health-Licensing and Certification district office that is responsible for assuring long-term care facilities' compliance with state and federal regulations.

Based on the new law and the new reporting requirements, it is likely that calls for service at these facilities will increase. ***It is very important that the calls are properly documented in either a crime report or an officer's report.*** Detective Wasinger is currently assigned to investigate elder abuse cases and he is happy to answer questions about these new laws and elder abuse in general.

Prepared by Sergeant M. Martin
Crime Against Persons