



# TUSTIN POLICE DEPARTMENT

July 3, 2012

Honorable Thomas J. Borris, Presiding Judge  
Superior Court of California  
County of Orange  
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Santa Ana, CA 92701

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Honorable Thomas J. Borris:

On June 11, 2012, we received the 2011-2012 Orange County Grand Jury Report, "*Elder Abuse: The Perfect Storm*". The report was both informative and enlightening regarding the problem of elder abuse in our community today.

Before responding to the specific findings and recommendations in the report, I feel compelled to mention that the Tustin Police Department is a nationally accredited agency through the Commission on Accreditation for Law Enforcement Agencies. As such, we maintain strict adherence to over 450 standards, which are considered best practices in law enforcement nationwide. We have taken a proactive stance towards the investigation of crimes against the elderly population and we share the concerns of the Grand Jury regarding the "steep increase" in the number of reported incidents of elder abuse.

Regarding Finding 3 (F3), we agree with the assertion that reviewing our current procedures could improve recognition of elder abuse. With the recent uptick in the number of Part I crimes in our community, combined with limited resources due to a constrained budget, it is reasonable to assume some of the oftentimes overlooked cases could "slip through the cracks".

Fortunately, for the Tustin Police Department, we already have a policy in place that addresses our response to elder abuse cases. Our policy properly defines elder abuse for our personnel, lists the mandatory reporting requirements and discusses the various responsibilities of investigating officers and support personnel in elder abuse cases.

The recommendation that applies to our department (R5) states "By December 31, 2012, the Sheriff's Department and city police departments should evaluate and update their programs on responding to elder abuse cases." This recommendation **has not yet been implemented, but will be implemented** in the future. The timetable to achieve this implementation will be discussed below.



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Recently, our Community Policing Bureau Commander, Captain Celano, met with members of our Special Operations Division to evaluate our investigative response to elder abuse cases, as well as review our policy for currency and relevancy. As a result of that meeting, it became clear we have a solid handle on the investigation of elder abuse cases.

We typically process between five and ten elder abuse cases per month. These cases can come from the patrol division as a result of officers responding to calls for service or they may come in the form of an APS (Adult Protective Services) report, which comes through the front counter. At the front counter, a Police Services Officer or a Cadet, completes an information report with the APS report attached and forwards it to Records. From there, the case, along with cases generated from patrol, gets added to a report routing system. The General Investigations (GI) Supervisor reviews each and every report that gets filed into our system and assigns them accordingly. This singular clearinghouse allows for tight controls and mitigates the chances of cases slipping through the cracks.

From there, our GI Sergeant assigns elder abuse cases to our elder abuse investigator, Chris Grover. Investigator Grover has been formally trained in the investigation of elder abuse cases and has worked closely with both APS and the OCDA's office on many cases in the last several years. Investigator Grover did indicate it is very difficult to get these types of cases filed by the OCDA, for a variety of reasons (lack of jury appeal, refusal to prosecute by the victim, difficulty proving, etc.). Although this has become a source of frustration for Investigator Grover, he has not allowed it to dissuade him from vigorously investigating the cases and submitting them to the DA regardless. Investigator Grover indicated that it was related to him by APS that Tustin PD is one of the best agencies in the County in responding to and investigating elder abuse cases. Many other departments simply do not have the time nor the resources to follow up on them.

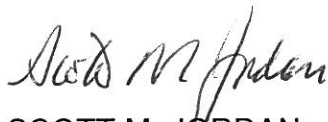
Another backstop in place is our Community Impact Officer, Khaya Breskin. Officer Breskin is not assigned to traditional patrol duties, but rather deals with quality of life issues and repeat calls for service. Her unique position affords the time to assist with potential elder abuse cases. Officer Breskin works closely with Investigator Grover, as well as our APS representative, Kathleen Hearlie to properly identify elder abuse cases and work with the various resources to resolve them.

Special Operations personnel also indicated our policy needs to be modified slightly to include a reference to the Community Care Licensing arm of the State, since our investigator works with them on a regular basis in some of the elder abuse cases stemming from board and care facilities. This is becoming more and more commonplace with an aging population. As a result of that recommendation, we will bring the proposed changes to our next Management Staff meeting in August for review and approval.

Additionally, our Professional Standards Division (PSD) is responsible for providing department wide training. In our research, we found that we have not provided any type of formal training in responding to and investigating elder abuse cases. Through our PSD, and with the assistance of Investigator Chris Grover, we have scheduled mandatory department-wide training for first responders for October of 2012. This one hour block of training will provide our personnel with the knowledge necessary to better identify and respond to elder abuse cases in the field. It is our hope this shared knowledge will assist us in achieving the recommended goals stated in the Grand Jury report.

If you have any additional questions or concerns, please contact Captain Charlie Celano at (714) 573-3308.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Scott M. Jordan".

SCOTT M. JORDAN  
Chief of Police

SJ/CC/sha

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2	01/24/2011	04/03/2012	03/01/2013

## TUSTIN POLICE DEPARTMENT GENERAL ORDERS

### POLICY 326 ELDER ABUSE

#### 326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with direction and understanding of their role in the prevention, detection, and intervention in incidents of elder abuse. It is the policy of the Tustin Police Department to treat reports of violence against elderly persons as high priority criminal activity that is to be fully investigated regardless of the relationship between the victim and the suspect(s).

##### 326.1.1 ACCREDITATION STANDARDS

This policy pertains to the following CALEA Standards: 82.2.1, 82.2.4

#### 326.2 DEFINITIONS

For purposes of this policy, the following definitions are provided (Welfare and Institutions Code § 15610; et seq. and Penal Code § 368).

**Dependent Adult** – is any person residing in this state, between the ages of 18 and 64 years, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. Dependent Adult includes any person between the ages of 18 and 64 years who is admitted as an inpatient to a 24 hour health facility, as defined in Health and Safety Code §§ 1250, 1250.2 and 1250.3.

**Elder** – is any person residing in this state, 65 years of age or older.

**Financial Abuse** – is a situation in which any person who has the care or custody of, or who stands in a position of trust to, an elder or a dependent adult, takes, secretes, or appropriates their money or property to any use or purposes not in the due and lawful execution of his or her trust.

**Abuse of an Elder or a Dependent Adult** - is physical abuse, neglect, fiduciary abuse, abandonment, isolation or other treatment with resulting physical harm, pain, mental suffering or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

**Adult Protective Services Agency** – is a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

**Neglect** – is the negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care which a reasonable person in a like position would exercise. Neglect includes, but is not limited to, all of the following:

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- a) Failure to assist in personal hygiene, or in the provision of food, clothing or shelter;
- b) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone instead of medical treatment.

### **326.3 MANDATORY REPORTING REQUIREMENTS**

Members of the Tustin Police Department are mandated reporters.

Employees who observe, have knowledge of, or are told by an elder or dependant adult about any form of abuse (physical abuse, abandonment, abduction, isolation, financial abuse, neglect) shall make a report and notify the appropriate social services representative as soon as practicable (see Welfare & Institutions Code § 15630 for reporting details). Failure to make a report within two working days is a misdemeanor (Welfare and Institution Code § 15630(h)).

The General Investigations Supervisor is responsible to ensure that cases of suspected elder abuse are forwarded to the District Attorney's Office and any other regulatory agency that may be applicable based upon where the abuse took place (care facility, hospital) per Welfare and Institution Code § 15630(b).

#### **326.3.1 INVESTIGATING OFFICERS RESPONSIBILITY**

When an officer encounters suspected elder abuse, Adult Protective Services should be contacted by phone to advise or respond to assist in the investigation. If the suspected abuse occurs in a privately owned long-term care facility, or in a state mental health hospital, the handling officer shall also notify the Bureau of Medi-Cal Fraud as soon as possible. The contact number for the Bureau of Medi-Cal fraud is 1-800-722-0432.

#### **326.3.2 RECORDS UNIT RESPONSIBILITY**

The Records Unit is responsible for the following:

- a) Provide a copy of the elder/dependent abuse report to Adult Protective Services and to the Bureau of Medi-Cal Fraud if applicable within two days. This requirement is applicable even if the initial call was received from Adult Protective Services.
- b) Retain the original elder/dependent abuse report with the initial case file.

### **326.4 OFFICER'S RESPONSE**

All incidents involving actual or suspected elder and dependent abuse shall be fully investigated and appropriately documented.

#### **326.4.1 INITIAL RESPONSE**

Officers may be called upon to effect a forced entry as the first responder to the scene of a suspected elder abuse. Entry should be immediate when it appears reasonably necessary to protect life or property. When the need for an emergency entry is not evident, officers should seek supervisory approval. Officers must be prepared to provide emergency care pending the arrival of medical personnel, if not already present.

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### 326.4.2 STABILIZE THE SITUATION

Officers must quickly assess the situation in an effort to ensure the immediate safety of all persons. Officers shall also consider taking the following actions:

- a) Attempt to identify the victim, suspect, and witnesses as well as the roles and relationships of all parties. Parties should be interviewed separately when possible.
- b) Preserve the crime scene where evidence may be present. All persons should be removed from the scene until it has been photographed and processed. Any evidence that may change in appearance, injuries for example, should be photographed as soon as practicable.
- c) Assess and define the nature of the problem. Officers should assess the available information to determine the type of abuse that may have taken place or the potential for abuse in the future that may be eliminated by intervention.
- d) Make on-scene arrests when appropriate. Officers may arrest a person without a warrant when probable cause exists to believe that the person has committed an assault or battery, whether or not the assault or battery has in fact been committed, upon a victim 65 years of age or older to whom the suspect is related by blood or legal guardianship, provided the arrest is made at the time probable cause arises (Penal Code § 836).

### 326.4.3 SUPPORT PERSONNEL

The following person(s) should be considered if it appears an in-depth investigation is appropriate:

- a) Field Supervisor;
- b) Detective personnel;
- c) Evidence collection personnel;
- d) The appropriate complaint investigating unit for the institution if the abuse is in a long-term care facility.

### 326.4.4 EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or dependant adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than fiduciary abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

### 326.5 ELDER ABUSE REPORTING

Every allegation of elder abuse shall be documented. When documenting elder/dependent abuse cases the following information should also be included in the report:

- a) Current location of the victim;
- b) Victim's condition/nature and extent of injuries, neglect or loss;
- c) Names of agencies and personnel requested and on scene.

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Reporting of cases of elder/dependent abuse is confidential and will only be released as per Policy Manual § 810. Officers investigating elder/dependent abuse shall complete State of California form SOC 341 (Report of Suspected Dependent Adult/Elder Abuse).