



## 2016-2017 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

### Update: Protecting Our Most Vulnerable Residents

#### Summary

The 2014-15 Santa Clara County Civil Grand Jury (2015 Grand Jury) report, *Protecting Our Most Vulnerable Residents*, recommended updating the *Elder and Dependent Adult Abuse Protocol for Santa Clara County Law Enforcement* (County Protocol). It also recommended that the police departments of Los Altos, Milpitas, Morgan Hill, Mountain View, and San Jose update duty manuals to reference the County Protocol.

The 2016-17 Civil Grand Jury (2017 Grand Jury) investigated whether these recommendations have been followed. This included:

- Reviewing agency responses to recommendations in the 2015 Grand Jury report, *Protecting Our Most Vulnerable Residents*.
- Reviewing law enforcement agencies' duty manuals.
- Requesting various agencies clarify their commitments to facilitate release of the updated County Protocol, including whether advocacy had taken place to the Santa Clara County Police Chiefs' Association (Police Chiefs' Association).
- Interviewing law enforcement personnel on their approach to inclusion of the County Protocol in department duty manuals.
- Meeting with the Office of the Santa Clara County District Attorney (District Attorney) about its role in revising and updating the County Protocol.
- Reviewing the Elder and Dependent Adult Abuse Resource Card (Resource Card).
- Reviewing the Financial Abuse Specialist Team (FAST) Practice Guide.

The 2017 Grand Jury found that:

- The agencies identified in the 2015 Grand Jury report have advocated for revision of the County Protocol.
- The District Attorney has developed a Resource Card in English, Spanish and Vietnamese for use by the victims of abuse.
- Law enforcement agencies have updated their duty manuals.
- The District Attorney has issued the newly developed FAST guide for use by county agencies when investigating elder and dependent adult financial abuse.
- The District Attorney has not completed revisions to the County Protocol.

## Background

This 2015 Grand Jury report was published as a result of a complaint charging that County law enforcement agencies were not following California Penal Code Section 368 (Penal Code 368) when reporting elder abuse and dependent adult abuse. Penal Code 368 defines elders as age 65 or older and dependent adults as age 18 through 64 years of age.

The findings of the 2015 Grand Jury investigation were:

- Law enforcement duty manuals lacked policies and procedures in reference to Penal Code 368.
- County agencies lacked uniformity in addressing elder and dependent adult abuse.
- Law enforcement agencies for elder and dependent adult abuse need additional training on avenues available for reporting abuse to the District Attorney.

The 2015 Grand Jury investigation concluded that:

- The duty manual of the San Jose Police Department (SJPD) does not refer to the County Protocol.
- The duty manuals of the other 11 county law enforcement agencies do address Penal Code 368 sufficiently.
- “The Santa Clara County Police Chiefs' Association has not updated the County Protocol in nearly five years. The document is overly long and should be reviewed and revised.”
- “In order to promote uniform enforcement by all law enforcement agencies in Santa Clara County, the duty manuals of each county law enforcement agency should refer to the County Elder and Dependent Adult Abuse Protocol. The duty manuals of the law enforcement agencies of Los Altos, Milpitas, Morgan Hill, Mountain View, and San Jose do not refer to the protocol.”
- In order to best serve elders and dependent adults who may be victims of abuse, the County Social Services Agency, Adult Protective Services, and the District Attorney should collaborate on a document for law enforcement agencies to provide to elder and dependent adult abuse victims advising them of available resources.

The findings and recommendations identified in the 2015 Grand Jury report, *Protecting Our Most Vulnerable Residents* are listed below in Table 1.

**Table 1**

<b>Summary of Findings &amp; Recommendations – Protecting Our Most Vulnerable Residents</b>		
<b>Agency</b>	<b>Finding</b>	<b>Recommendation</b>
San Jose Los Altos Milpitas Morgan Hill Mountain View	The Police Department's duty manual does not reference the Santa Clara County Elder and Dependent Adult Abuse Protocol	"The (agency) Police Department should revise its duty manual to reference the Santa Clara County Elder and Dependent Adult Abuse Protocol."
Campbell Gilroy Los Altos Los Gatos Milpitas Morgan Hill Mountain View Palo Alto San Jose Santa Clara Sunnyvale Office of the Sheriff Dept. of Corrections District Attorney	The Elder and Dependent Adult Abuse Protocol for Santa Clara County Law Enforcement, dated July 2010, has not been revised in five years, is over 100 pages long, and should be revised and shortened.	"The (agency) Police Department, as a member of the Police Chiefs' Association of Santa Clara County, should advocate for revision of the Elder and Dependent Adult Abuse Protocol for Santa Clara County Law Enforcement."
County of Santa Clara, Social Services Agency, Department of Aging and Adult Services, Adult Protective Services District Attorney	There is no document to be given to elder and dependent adult abuse victims containing a list of available resources.	"The County, through the Social Services Agency and the Office of the District Attorney should collaborate on a document for law enforcement agencies to provide elder and dependent adult abuse victims advising them of available and applicable resources."

The county agencies' responses to the above recommendations are listed in the Bibliography of this report.

## Discussion

The purpose of the 2017 Grand Jury follow-up investigation was to determine:

- Whether the five law enforcement agencies identified in the recommendations of the 2015 Grand Jury report have updated their police duty manuals to address the intent of Penal Code 368.
- Whether the Police Chiefs' Association has updated its policies and procedures to address the County Protocol in reference to Penal Code 368 requirements.
- Whether the Santa Clara County Sheriff and the chiefs of the 11 police departments in the County have been advocating to the Police Chiefs' Association to facilitate changes to the County Protocol.
- Whether a Resource Card or document has been developed to provide victims of Penal Code 368 with available and applicable resources.

To substantiate that Penal Code 368 was incorporated into the duty manuals, law enforcement agencies were tasked with providing the section of their manual addressing the County Protocol. Not only was the requested information provided in hard copy but a number of the law enforcement agencies' duty manuals were available online.

Early in the investigation it was disclosed to the 2017 Grand Jury that the County Protocol is being revised and updated by the District Attorney.

At the time this report was finalized, the District Attorney had not released an updated version of the County Protocol document.

The District Attorney will submit for review and approval the revised County Protocol to the Police Chiefs' Association at its June 8, 2017, meeting.


The proposed changes are:

- Introduction will be updated with current census information.
- Mandatory reporting sections will be updated.
- New section "Joint Investigation" will be added.
- "Protective Orders" section will be revised.
- "Resource and Services" section will be revised to show "Victim Witness Assistance" is now the "Victim Services Unit" of the District Attorney's Office.
- Sections pertaining to investigations of suspicious death and homicides will be revised.
- Contact information for law enforcement agencies will be updated.

The District Attorney has developed a Resource Card for law enforcement officers to give to victims of elder and dependent adult abuse. The card is available in English, Spanish, or Vietnamese. See Figures 1 and 2 below.

In addition, Santa Clara County has developed and issued guidelines for county agencies to follow during investigations of elder and dependent adult financial abuse cases. These guidelines are identified in the *Financial Abuse Specialist Team Practice Guide* (FAST) document: “The objective of FAST is to ensure that all efforts to protect elder and dependent adult victims of financial crime taken by the FAST members and other agencies within the County of Santa Clara are effective and sensitive to the needs of the victim(s). Due to the number of factors involved in complicated financial abuse cases, no one group can resolve the issue in isolation.”

**Figure 1**  
Front side of English-language Resource Card

<p style="text-align: center;"><b>ELDER / DEPENDENT ABUSE RESOURCE PHONE NUMBERS</b></p>	<p><b>IMPORTANT INFORMATION</b></p>							
<ul style="list-style-type: none"> <li>• <b>Adult Protective Services:</b> (800) 414-2002</li> <li>• <b>Long Term Care Ombudsman:</b> (800) 231-4024</li> <li>• <b>District Attorney’s Office:</b> (408) 792-2888 – Investigations (408) 295-2656 - Victim Services Unit</li> <li>• <b>Senior Adult Legal Assistance:</b> (408) 295-5991</li> <li>• <b>Sourcewise (Council on Aging):</b> (408) 350-3200</li> <li>• <b>United Way Information &amp; Referrals:</b> <a href="http://www.211scc.org/">http://www.211scc.org/</a> 2-1-1</li> <li>• <b>Family Caregiver Alliance:</b> <a href="http://www.caregiver.org/">http://www.caregiver.org/</a> (415) 434-3388</li> <li>• <b>Alzheimer’s Association:</b> <a href="http://www.alz.org/index.asp">http://www.alz.org/index.asp</a> (408) 372-9900</li> <li>• <b>California Advocates for Nursing Home Reform (CANHR):</b> <a href="http://www.canhr.org/about/index.html">http://www.canhr.org/about/index.html</a> (415) 974-5171</li> <li>• <b>Mental Health</b> (800) 704-0900</li> <li>• <b>National VA Veterans Crisis Line:</b> <a href="http://www.veteranscrisisline.net/">http://www.veteranscrisisline.net/</a> 1-800-273-8255 (press 1)</li> </ul>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; border-bottom: 1px solid black;">DATE</td> <td style="width: 50%; border-bottom: 1px solid black;">POLICE CASE NUMBER</td> </tr> <tr> <td style="border-bottom: 1px solid black;">OFFICER NAME</td> <td style="border-bottom: 1px solid black;">BADGE NUMBER</td> </tr> <tr> <td colspan="2" style="border-bottom: 1px solid black; text-align: center;">POLICE DEPARTMENT PHONE NUMBER</td> </tr> </table> <p style="text-align: center;"><b>Law Enforcement Agencies in Santa Clara County</b></p> <p style="text-align: center;"><b>Non-Emergency</b></p> <p>Campbell Police.....(408) 866-2101          Gilroy Police.....(408) 846-0350          Los Altos Police.....(650) 947-2770          Los Gatos/Monte Sereno Police.....(408) 354-8600          Milpitas Police.....(408) 586-2400          Morgan Hill Police.....(408) 779-2101          Mountain View Police.....(650) 903-6395          Palo Alto Police.....(650) 329-2413          San Jose Police.....(408) 277-8900          Santa Clara Police.....(408) 615-5580          Stanford Police.....(650) 723-9633          Sunnyvale Public Safety.....(408) 730-7180          Santa Clara County Sheriff.....(408) 299-2311</p> <p style="text-align: center;"><b>EMERGENCY 9-1-1</b></p>	DATE	POLICE CASE NUMBER	OFFICER NAME	BADGE NUMBER	POLICE DEPARTMENT PHONE NUMBER		<p><b>SANTA CLARA COUNTY</b></p> <p><b>ELDER &amp; DEPENDENT ADULT ABUSE RESOURCE CARD</b></p> <p>Information for Elder and Dependent Adult Abuse Victims</p>
DATE	POLICE CASE NUMBER							
OFFICER NAME	BADGE NUMBER							
POLICE DEPARTMENT PHONE NUMBER								

**Figure 2**  
 Back side of English-language Resource Card

<p align="center"><b>YOUR RIGHTS AS A VICTIM OF        ELDER AND DEPENDENT ADULT        ABUSE</b></p>	<p align="center"><b>YOUR RIGHTS AS A VICTIM OF        ELDER AND DEPENDENT ADULT        ABUSE</b></p>	<p align="center"><b>ELDER AND DEPENDENT        ADULT ABUSE INCLUDES:</b></p>
<p><b>Elder and dependent adult victims of violent crime have the right to go to court and file a petition requesting any of the following:</b></p> <ul style="list-style-type: none"> <li>• An order restraining the perpetrator from abusing the victim and other family members.</li> <li>• An order directing the perpetrator to leave the household.</li> <li>• An order preventing the perpetrator from entering the residence of the victim.</li> <li>• An order directing the defendant to make payments for restitution.</li> <li>• An order directing that either or both parties participate in counseling.</li> <li>• An order directing peaceful contact between both parties.</li> </ul> <p><b>For further information and assistance, call the Victim Services Unit at (408) 295-2656</b></p>	<p><b>Elder and dependent adult victims have the right:</b></p> <ul style="list-style-type: none"> <li>• To be treated with fairness, respect, dignity and compassion.</li> <li>• To be protected from intimidation and harm.</li> <li>• To be informed of social services and resources available.</li> <li>• To be informed of the criminal justice process.</li> <li>• To have a victim advocate if subpoenaed as a witness.</li> </ul>	<p><b>Physical:</b> Infliction of pain or injury, unreasonable physical constraint, prolonged or continual deprivation of food, water, medication, proper hygiene and access to other basic needs on an elder or dependent adult.</p> <p><b>Neglect:</b> Negligent failure of any person having the care or custody of an elder or dependent adult to exercise that degree of care that a reasonable person would exercise.</p> <p><b>Sexual Assault:</b> Any type of involuntary sexual act that is committed without a person's willful consent.</p> <p><b>Financial:</b> Taking without permission, stealing or retaining real or personal property with intent to defraud.</p> <p><b>Abandonment:</b> Desertion of an elder or dependent adult by anyone having care or custody of that person under the circumstance a reasonable person would continue to provide care and custody.</p> <p><b>Isolation:</b> Intentionally preventing an elder or dependent adult from receiving their mail, e-mail, telephone calls, or contact from friends or family.</p> <p><b>Abduction:</b> The removal and restraint of any elder or dependent adult lacking the capacity to consent or any conservatee without the consent of the conservator or the court.</p> <p><b>Self-Neglect:</b> Negligent behavior to oneself to exercise degree of care that a reasonable person in like situation would exercise that threatens the person's own health/safety.</p>
	<p align="center"><b>IF THERE HAS BEEN AN ARREST</b></p>	
	<p>A person alleged to have committed violence/abuse against you is arrested, he or she may be released at any time. For more information about an inmate's custody status or to receive notification of an inmate's release from jail, contact: <b>California Statewide Victim Notification Service at: (877) 411-5588</b>  <a href="http://www.vinelink.com">www.vinelink.com</a></p>	
	<p>Last Revised: 11/15</p>	

## Conclusions

- The agencies identified in the recommendations of the 2015 Grand Jury report, *Protecting Our Most Vulnerable Residents*, have advocated to the Police Chiefs' Association for updates and revision of the County Protocol.
- The District Attorney has developed and released a resource card in three languages to be handed out by Santa Clara County law enforcement agencies to the victims of elder or dependent adult abuse.
- The County agencies have implemented the recommendation to update their duty manuals, per the 2015 Grand Jury report, *Protecting Our Most Vulnerable Residents*.
- The District Attorney has issued the "Financial Abuse Specialist Team Practice Guide" (FAST) document, which addresses elder and dependent adult financial abuse.
- The County Protocol for Santa Clara County Law Enforcement agencies has been referenced in the newly released FAST document.
- The District Attorney has completed the draft of the County Protocol, which will be submitted to the Police Chiefs' Association for approval.

## **Findings and Recommendations**

### **Finding 1**

On May 16, 2017 the District Attorney provided the 2017 Civil Grand Jury with a draft copy of the Santa Clara County Protocol.

### **Recommendation 1**

The Santa Clara County District Attorney should provide the Civil Grand Jury with a copy of the Santa Clara County Protocol document once it is approved and released.



## References

The Grand Jury interviewed staff at two county agencies between October 6, 2016 and April 6, 2017.

The Grand Jury surveyed 16 county agencies between September 29, 2016 and April 6, 2017.

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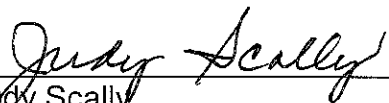
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This report was **ADOPTED** by the 2016-2017 Santa Clara County Civil Grand Jury on this 31<sup>st</sup> day of May, 2017.

  
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Judy Scally  
Foreperson Pro-Tempore