

SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 91.2

REPORTING OF DEPENDENT OR ELDER ABUSE

ISSUED APRIL 2006

91.2.1 Reporting

In 1986 laws were passed which mandated reporting of abuse against elderly or dependent adults. These laws allow any person witnessing or suspecting an abuse incident to report the incident to local authorities. These laws also require specified individuals, including police officers, to report any actual or suspected dependent or elderly abuse. Law enforcement agencies are required to document these cases.

91.2.2 Member Responsibility

Members of the Santa Clara Police Department shall comply with the following procedures regarding the reporting of dependent adult abuse and elderly abuse. Additional information is contained in the County "Elder and Dependent Adult Abuse Protocol," a copy of which is maintained in each division.

91.2.3 Procedure

Any reported abuse of a "dependent adult" or "elder" will be documented on an offense report. A report will be completed to document any actual abuse or suspected abuse. The officer completing the report will indicate "Dependent Adult Abuse" or "Elderly Abuse" in the "Classification" box on the offense report, in addition to the code, section number, and description normally placed in this location.

If dictated by the nature of the case, Records personnel will process the report as a priority report according to the "Assignment of Work" list kept in Records.

The Detective assigned to the case will comply with the following procedure:

- Upon receiving the case the Detective will make telephone and written reports to either the Long-Term Care Ombudsman's Office or County Adult Protective Services. The reports are to be made as soon as possible by telephone, with a written report (State of California Form 341) to follow within two working days.
- When the incident occurs in a long-term care facility, notify the Long-Term Care Ombudsman's Office at (408) 944-0567 or (800) 231-4024. The written report will be mailed to:

Long-Term Care Ombudsman's Office
2625 Zanker Rd. Suite 200
San Jose, California 95134

91.2

- Adult Protective Services will be notified when the abuse or suspected abuse occurs in a place other than a long-term care facility. When the victim is 65 years of age or older, the incident should be reported to (800) 414-2002. When the victim is between 18 years of age and 64 years of age (dependent abuse), the incident should also be reported to (800) 414-2002.

The written report will be mailed to:

Adult Protective Services
591 N. King Road
San Jose, California 95133

The licensing agency having authority over the facility where the incident occurred will also be notified by the Detective according to the following guidelines. The Department of Health Services Licensing (277-1784) will be notified on incidents that occur in:

- Skilled nursing facilities
- Swing beds in General Acute Care Hospitals
- Distinct part-skilled nursing facilities in General Acute Care Hospitals
- Intermediate care facilities
- Intermediate care facilities for developmentally disabled (able to be rehabilitated)
- Adult day health-care facilities

Community Care Licensing (277-1289) will be notified on incidents that occur in:

- Adult residential facilities
- Residential care facilities for the elderly
- Rehabilitation facilities
- Adult day care facilities

91.2.4 Definitions

“Abuse of an elder or a dependent adult” means physical abuse, neglect, intimidation, cruel punishment, fiduciary abuse, abandonment, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a case custodian of goods or services which are necessary to avoid physical harm or mental suffering.

“Elder” means any person residing in this state, 65 years of age or older.

“Dependent Adult” means any person residing in this state, between the ages of 18 and 64, who has physical or mental limitations which 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.

“Physical Abuse” as defined in Welfare and Institutions Code Section 15610(c) means all of the following:

- Assault, defined in Section 240 of the Penal Code.
- Battery, as defined in Section 242 of the Penal Code
- Assault with a deadly weapons or force likely to produce great bodily injury, as defined by Section 245 of the Penal Code.
- Unreasonable physical constraint, or prolonged or continual deprivation of food and water.
- Sexual Assault, which means any of the following:
 - Sexual battery, as defined in 243.4 P.C.
 - Rape, as defined in 261 P.C.
 - Rape in concert, as defined in 264.1 P.C.
 - Incest, as defined in 264.1 P.C.
 - Sodomy, as defined in 286 P.C.
 - Oral Copulation, as defined in 288a P.C.
 - Penetration of a genital or anal opening by a foreign object, as defined in 289 P.C.

“Neglect” means 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:

- Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
- 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 in lieu of medical treatment.
- Failure to protect from health and safety hazards.
- Failure to prevent malnutrition.

“Abandonment” means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

“Fiduciary Abuse” means 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 dependent adult, takes, secretes, or appropriates their money or property, to any use or purpose not in the due and lawful execution of his or her trust.