

Elder Abuse and the “Silver Tsunami”

Fresno County Grand Jury Report No. 1

July 2019

SUMMARY

The 2018-2019 Grand Jury received a complaint regarding the current commitment of resources allocated to address crimes committed against elders, noting projected increase in the elder population in the near future. The complainant asked, “Why aren’t we doing more by committing more resources in order to protect our seniors?”

The World Health Organization defines Elder abuse as:

A single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person. Elder abuse can take various forms such as financial, physical, psychological and sexual. It can also be the result of intentional or unintentional neglect.¹

The main focus of our research and investigation was to discover if local public entities tasked with serving elders are: 1) Capable of adequately managing the current volume of elder abuse complaints they receive; 2) Preparing for the expected increases in the elder population and the challenges this will present. Investigation and research took us on a journey that raised many elder related questions that are beyond the scope of this report, ones that could and should benefit from further inquiry.

Elder abuse is a multifaceted issue involving many agencies, each operating under specific federal and state mandates and laws resulting in local implementation duplication, gaps, and other challenges. It is a health, social, economic, and legal problem, often unreported and involving complex family dynamics. It is a known fact that people are living longer and the number of older Americans is increasing. This increase was described by some as a "Silver Tsunami." This inevitable increase in the elder population leads to the expectation that the number of cases involving elder abuse will also rise. All individuals interviewed expect this to happen.

In general, agencies currently appear to be allocating to elder services their limited resources as best they can. They closely monitor and manage their budgets as they struggle to meet other competing needs and mandates within their organizations. While agencies acknowledge that the number of elders is increasing at a pace faster than in previous years, and that it will have an impact, there appears to be no individual or community plan to address it.

¹ World Health Organization, Ageing and Life Course, https://www.who.int/ageing/projects/elder_abuse/en.

Additionally, while elder abuse prevention education efforts were noted to be needed, they are not required by mandates under which most agencies operate. A number of nonprofits have sprung up in an attempt to address elder abuse related issues.

Based on the Grand Jury's investigation, Fresno County could benefit from the allocation of additional resources in multiple areas in order to address the projected disproportionate increase in the elder population (see footnote 4, page 3). Of importance is the development and implementation of a coordinated interagency approach to serving Fresno's elders, to include elder abuse prevention, identification and reporting; and provider and community education and outreach. While this investigation and report focuses on elder abuse, the Jury would be remiss not to acknowledge that all agencies that serve elders in any capacity can expect to be impacted by elder population growth and should plan for it.

The Grand Jury recognizes and commends the dedication and commitment of those interviewed for this report in the execution of their service duties to the elder community.

GLOSSARY

See Appendix A for a complete alphabetical listing of initials used throughout this report.

BACKGROUND

California's population is aging at a rate faster than the rest of the nation! What was previously the "Graying of America" is now called by some the "Silver Tsunami." The California Legislative Analyst's Office report, titled "A Long-Term Outlook: Disability Among California's Seniors," projects that for California, the growth in the senior population will be primarily driven by the aging Baby Boomer generation and the largest growth will be for seniors over 85 years old. California seniors, defined as adults aged 65 and older, will increase from roughly 5.3 million in 2017 to 13.4 million in 2060.²

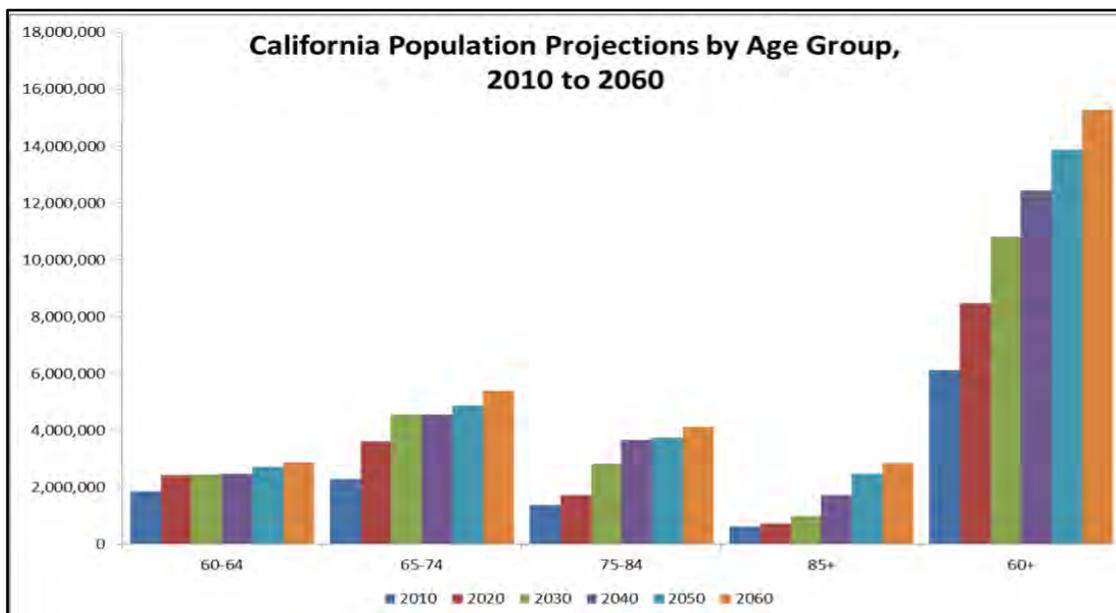
From 2016 to 2036, California's population is projected to grow at an annualized rate of 0.76 percent, adding 6.5 million people. During this 20 year span the population age 65 and older is projected to grow from 14 percent to 23 percent and will reach 26 percent growth in 2060. The San Francisco Bay Area, greater Sacramento region, Central Valley, and Inland Empire regions of the state are projected to grow more quickly than the state overall, each increasing their share of the state's total population by 1 to 2 percentage points. Between 2017 and 2020 Fresno is expected to experience nearly a 10 percent increase in those 60 and older.³

² *California Senate Budget and Fiscal Review Agenda*, California Senate Committee on Budget and Fiscal Review, Holly J. Mitchell, Chair Subcommittee No. 3., Consultant: Renita Polk, March 14, 2019, https://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/03_14_19_Dept_of_Aging_Senior_Legislature_Dept_Social_Services_Agenda_FINAL.pdf.

³ California Department of Finance, Releases New State Population Projections, March 8, 2017, http://www.dof.ca.gov/Forecasting/Demographics/Projections/documents/P_PressRelease.pdf.

California Department of Finance (DOF) projects that the population aged 60 years and over is expected to grow more than three times as fast as the total population. This growth will vary by region. The population 60 years and over will increase by 166 percent during the period from 2010 to 2060. Fresno will experience an increase of 170 percent. The population over age 85 will increase at even a faster rate during the period from 2010 to 2060. With an increase projection of 350 percent, Fresno is one of 36 counties expected to increase by 300 percent in the number of persons aged 85 and older. In particular, the influence of the 85 and over age group in California will emerge most strongly between 2030 to 2040 as the first of the baby boomers reach age 85.⁴

The following projections chart of elder aging was included in “A Shattered System: Reforming Long-Term Care in California. Envisioning and Implementing an IDEAL Long-Term Care System in California.” The report was published by the Senate Select Committee on Aging and Long Term Care in December 2014, with data provided by the California Department of Finance (DOF).⁵



Source: California Department of Finance, Report P-3: State and County Population Projections by Race/Ethnicity, Detailed Age, and Gender, 2010-2060. Sacramento, California, January 2013.

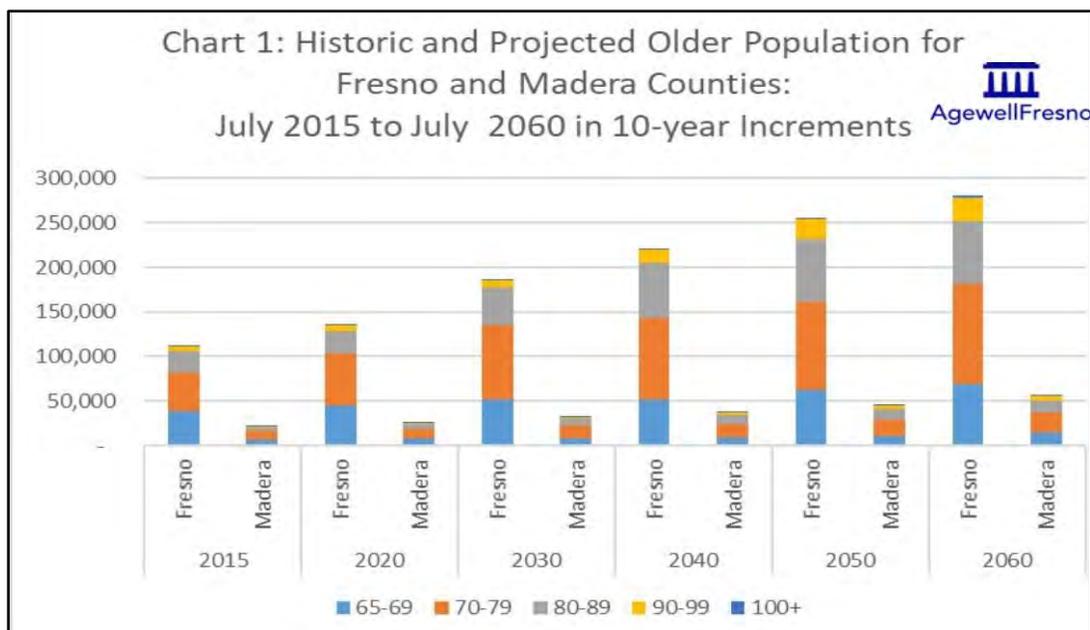
⁴ California Department of Aging, Percentage Increase of the Elderly Population: 2010 to 2060, https://www.aging.ca.gov/Data_and_Statistics/Facts_About_Elderly.

⁵ *A Shattered System: Reforming Long-Term Care in California. Envisioning and Implementing an IDEAL Long-Term Care System in California.* Senate Select Committee on Aging and Long Term Care, December 2014, <https://archive.senate.ca.gov/sites/archive.senate.ca.gov/files/committees/2013-14/committeepages.senate.ca.gov/agingandlongtermcare/AgingLong%20TermCareReport.pdf>.

California Department of Aging (CDA) provides the following 2018 projections about Fresno County elder population. Unless otherwise noted the data is for ages 60+.⁶

● Population: 175,008	● Low income: 26,750
● Minority (races): 91,457	● Lives alone: 31,615
● Geographically isolated: 18,289	● Non-English speaking: 12,1250
● Medi-Cal eligible: 46,1539	● Age 65+ SSI/SSP: 16,788
	● Age 75+: 52,063

The chart below from the Agewell Fresno website, provides Fresno and Madera County aging data, obtained from the California Department of Finance (DOF) website as noted under the chart.⁷



Sources: 1) Demographic Research Unit, California Department of Finance, 2017. Total Estimated and Projected Population for California Counties: July 1, 2010 to July 1, 2060 in 5-year Increments.dof.ca.gov/Forecasting/Demographics/projections/documents/P1_County.xlsx. 2) Research Unit, California Department of Finance, 2017. Persons over the age of 85 in 2010 and 2030 State of California.

⁶ California Department of Aging, 2018 Population Demographics Projections, <https://www.aging.ca.gov>

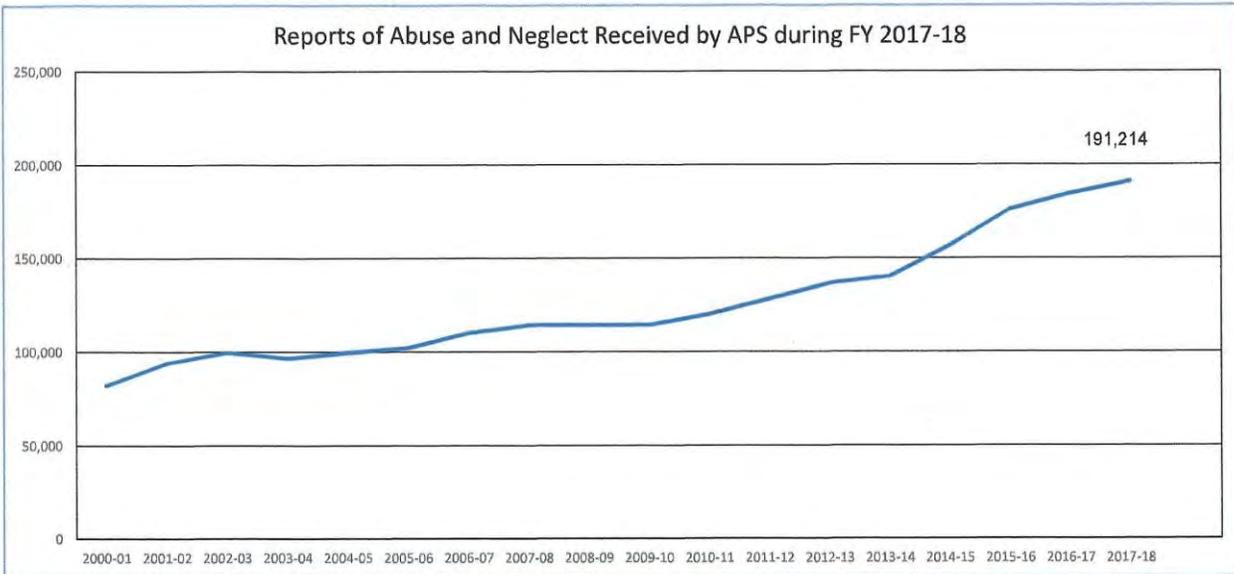
[/docs/DataAndStatistics/Statistics/IFF/2018%20Population%20Demographic%20Projections.pdf](https://www.aging.ca.gov/docs/DataAndStatistics/Statistics/IFF/2018%20Population%20Demographic%20Projections.pdf).

⁷Agewell Fresno, The Central Valley Long Term Support and Services Coalition, Fresno Aging Demographics Population, <https://www.agewellfresno.com/fresno-aging-Population-demographics>.

Reports of Abuse

In FY 2014-15, Adult Protective Services (APS) statewide received 156,358 unduplicated reports of abuse which is a 22 percent increase over FY 2011-12. Statewide, APS reported a 23 percent increase in the number of elder (65+ years) financial abuse reports received between 2011 and 2014 in California.⁸ The number of confirmed cases of financial abuse rose 19.6 percent in California for FY 2017-18 from previous years numbers.⁹

State of California APS Reports



Source: APS and County Services Block Grant Monthly Statistical Report (SOC 242)

For violent crimes against elders (60 + years), California Department of Justice (DOJ) data indicates that Fresno County ranged from a low of 204 crimes in 2010 to a high of 285 in 2016. California as a whole reported 60,604 such crimes in 2016 and 67,527 in 2018.¹⁰

Several interviewed saw Fresno County at a higher risk for incidents of elder abuse based upon county economic demographics.¹¹ This perspective is supported by County demographic data documents reviewed as part of this investigation. Fresno County has higher than state average rates of poverty (Fresno 21%; State 19% July 2017) and unemployment (Fresno - 8.9%; State -

⁸ *Child Welfare Services & Adult Protective Services Realignment Report: Outcome & Expenditure Data Summary*, Annual Report to the Legislature, April 2016, <http://www.cdss.ca.gov/cdssweb/entres/pdf/legislature/2016RealignmentReportOAB.pdf>.

⁹ *Adult Protective Services (APS) Program Overview*, California Department of Social Services Adult Programs Division, APS Assembly Budget Subcommittee #1, State Senate Budget Subcommittee #3, March 2019, <http://www.cdss.ca.gov/Portals/9/Budgets/APS%20Overview%202.12.19.pdf?ver=2019-03-12-111848-977>.

¹⁰ California Department of Justice, Office of the Attorney General, Open Justice, <https://openjustice.doj.ca.gov/crime-statistics/arrests>.

¹¹ U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, Extent of Elder Abuse Victimization, <https://www.nij.gov/topics/crime/elder-abuse/Pages/extent.aspx>.

4.4% March 2019). In 2017, only eight of California's fifty-eight counties had higher rates of unemployment than Fresno, and in 2018, eleven counties were higher.^{12,13}

Each state's Long Term Care (LTC) Ombudsman Program reports data they collect to the U.S. Administration for Community Living (ACL)/Administration on Aging (AoA). In turn, it is summarized by the National Ombudsman Reporting System (NORS). The LTC Ombudsman program serving Fresno County reported 167 incidents of elder abuse in FY 2017-18.¹⁴

The California Department of Public Health (CDPH) collects suicide data for the state and each county. In 2010, there were 66 reported incidents of elder suicides in Fresno County and in 2017 there were 106 reported incidents. High percentage increases were noted in the 25- 44 age group (from 21 to 42 incidents) followed by the 65+ age group (from 7 to 17 incidents).¹⁵

Elder crime has garnered national attention, especially with regard to fraud. The United States Attorney General recently announced the results of the 2017 elder fraud sweep, the largest single law enforcement action against elder fraud in the United States to date. This sweep involved 13 percent more criminal defendants, 28 percent more in financial losses, and included twice the number of fraud victims as the previous year's sweep.¹⁶

Financial crimes investigations are complex and time-consuming, involving multiple agencies and staff and frequently noted to be the most reported elder crime.^{17,18} Financial crimes include the theft or embezzlement of money or any other property from an elder, such as taking money from a wallet, taking over property, or closing out the elder's bank accounts.

The wealth or assets that the elderly have accumulated over time makes them a target for financial exploitation. The aging process often impairs cognition and physical health, often causing a dependency on others. This creates situations that put elders at risk of financial exploitation as well as other forms of elder abuse. Projected elder population increases lends an urgency to the problems of elder financial exploitation and other forms of elder abuse. A

¹² California Employment Development Department, Unemployment Rates and Labor Force, <https://www.labormarketinfo.edd.ca.gov/data/unemployment-and-labor-force.html>.

¹³ U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/ca.fresnocountycalifornia/PST045217>.

¹⁴ National LTC Ombudsman Reporting System (NORS), National LTC Ombudsman Resource Center, https://ltcombudsman.org/omb_support/nors

¹⁵ California Department of Public Health, EpiCenter, <http://epicenter.cdph.ca.gov/ReportMenus/InjuryDataByTopic.aspx>.

¹⁶ U.S. Department of Justice, <https://www.justice.gov/opa/pr/justice-department-coordinates-Largest-ever-nationwide-elder-fraud-sweep-0>.

¹⁷ National Council on Aging, <https://www.ncoa.org/public-policy-action/elder-justice/elder-abuse-facts>.

¹⁸ California Assembly Budget Subcommittee No. 1 on Health and Human Services, Adult Protective Services (APS) Budget and Program Review and Home Safe Advocacy Proposal, March 15, 2017, <https://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/March%2015%202017%20Sub.%201%20Agenda%20APS%20SSI-SSP%20HDAP%20CDA%20CSL.pdf>.

government 2011 study found that, for every documented case of elder financial exploitation, 43.9 went unreported.¹⁹

Elder Abuse is noted by some to be a silent epidemic.²⁰ Few people even know or talk about it; however, because of its sensitivity, and sometimes embarrassment, it goes unnoticed or unreported. Thus, for reasons that will be discussed later in this report, the numbers do not tell the whole story or fully portray the full scope of elder abuse. It may be the “tip of the iceberg” due to acknowledged underreporting by victims and their families, as well as, charging and prosecuting crimes against elders under other categories.

Legislation and Laws

A complex system of federal, and state laws and regulations has been established over time to oversee multiple local and state agencies and organizations serving the elder population. Following is a limited list of basic laws and legislation that provided the framework for elder services including the handling of abuse, as it exists today. Further information on each of the following, along with website location link can be found in Appendix B.

- **National**
 - The Older Americans Act (OAA) of 1965 created the Administration on Aging (AoA) under the Department of Health and Human Services and applies to those 60 years of age and older.
 - Social Security Act Title XX provides funding to states for social service programs including Adult Protective Services.
 - The Elder Justice Act in 2010 was the first comprehensive federal legislation to address abuse, neglect, and exploitation of older adults (60 years and older).
 - The Elder Abuse Prevention and Prosecution Act of 2017 established requirements for the Department of Justice (DOJ) regarding investigation and prosecution of elder abuse crimes (60 years and older).

- **California laws, regulations and governmental agencies/departments supporting implementation and adherence to federal elder laws mandates.**
 - AB 166 in 1966 established the California Commission on Aging (CCoA) to implement the OAA following its passage.
 - The Burton Act of 1973 created the Office on Aging (California Department of Aging [CDA] today) in the Department of Health and Human Services.
 - The Older Californians Act (OCA) of 1980 designated local Area Agencies on Aging (AAA) as local advocacy agencies and further defines the role of the

¹⁹ U.S. Securities and Exchange Commission, Office of the Investor Advocate, <https://www.sec.gov/files/elder-financial-exploitation.pdf>.

²⁰ Civil Legal and Supports, Federal Efforts to Help Prevent Elder Abuse, U.S. Department of Justice, Access to Justice Initiative, April 2015, https://www.justice.gov/sites/default/files/atj/pages/attachments/2015/04/13/elder_abuse.pdf.

CDA. Appendix C provides a diagram of the of the California Aging Network that is included in their 2017-2021 State Plan on Aging,

- The Mello-Granlund Older Californians Act in 1996, acknowledges the complexity and lack of coordination among agencies serving elders and requires coordination to reduce duplication, eliminate inefficiencies, and enhance service delivery .
 - *Area Agencies on Aging (AAA)* are tasked with implementing the OAA at the local level.
 - *The Long-Term Care Ombudsman Program* is staffed primarily by volunteers who support elders in facilities licensed by the Department of Public Health or Department of Social Services with resolving complaints. There are 35 LTC Programs in the state.
 - *Adult Protective Services*’ was created following the passage of Title XX of the Social Security Act. In 2011, under “realignment,” program and fiscal responsibility for adult protective services was shifted to counties.
- SB 1018 passed in 2005 requires financial institutions to train their employees on and report suspected financial abuse to law enforcement.
- **California Codes**
 - The California Courts and Judicial Branch, Elder Abuse Court in their “Elder Abuse Pocket Reference” provides a comprehensive list of Elder laws.
 - AB 2623 peace officers’ standards and training passed in 2014 sets elder abuse training standards for field and investigative police officers or deputy sheriffs.

METHODOLOGY

Grand Jury members reviewed the following in order to obtain information to respond to the complaint and write this report.

- Federal Acts and State Laws
- Local, state and national service websites
- Reports and documents written by national, state, private sector agencies, organizations and coalitions
- Newspaper articles
- Educational materials and pamphlets

Additionally, 13 staff from the following agencies and organizations serving elders participated in interviews.

- Local law enforcement agencies
- Fresno County Department of Social Services
- Fresno County District Attorney’s Office
- Nonprofit Organizations
- Professionals in private practice
- University faculty

DISCUSSION

Information obtained from multiple sources and individuals representing multiple agencies and organizations provided the Grand Jury with a great breadth and depth of information upon which this report was written and for its investigation of local public agencies. The Grand Jury acknowledges that the information included in this report is not all inclusive, nor is it intended to be given the complexity of the problem; the number of agencies, organizations, laws, and regulations involved; and the responsibility and term of service of the Grand Jury. Also noted by the Grand Jury during the process was that all individuals interviewed were hard-working individuals dedicated to improving the lives of their elder clients and their families.

Elder Crime Statistics

Federal and California laws and regulations apply different age ranges to the term “elder.” Differences exist as well within the State. Federal law and legislation typically applies to those age 60+ while California Penal and Welfare and Institutions Codes cite age 65+. California’s DOJ “elder crime” data reports crime on those 60 and above, while local elder crime is typically age 65+ per code. Groupings of age ranges differ at every level of government and between departments. The need to rectify this issue has been acknowledged at the Federal level as cited in a 2016 publication of the Centers for Disease Control and Prevention(CDC) and the passage of the Elder Abuse (EA)Prevention and Prosecution Act of 2017.

The development and use of uniform definitions and recommended core data elements is an important first component of a larger process a process to improve or standardize the data collection on elder abuse...By developing uniform definitions and recommended core data elements, we create a basis from which data standardization work can be initiated. These definitions can make it possible to more fully describe EA’s scope and nature.²¹

The Fresno County Sheriff’s Office (FCSO) reported that 135-150 cases are referred to the Elder Abuse Unit for investigation annually. The 2017 Fresno County Sheriff-Coroner’s Annual Review lists 109 investigations taking place that year. The FSO also provided information on the disposition/status of the 134 referrals assigned to the Elder Unit in 2018 leading to charges being filed by the District Attorney (DA) on 22 percent of those referrals.

The Fresno Police Department (FPD) reported that 170-230 cases are referred to the Elder Abuse Unit for investigation annually, with 168 reported in 2017 and 232 in 2018. Approximately 30 percent resulted in arrest/prosecution. The FPD receives approximately 600 calls or inquiries regarding elder abuse annually.

²¹ *Elder Abuse Surveillance: Uniform Definitions and Recommended Core Data Elements*Centers for Disease Control and Prevention, National Center for Injury Prevention and Control Division of Violence Prevention, 2016, p. 9, https://www.cdc.gov/violenceprevention/pdf/EA_Book_Revised_2016.pdf.

The Fresno County District Attorney's Office reported that between 2014-2018 the Elder Unit received approximately 100 cases annually. With approximately two new cases taken on each month. Annually, approximately 35-45 percent are filed as felonies; 35-50 percent as misdemeanors; and no charges were filed on 10-20 percent. These numbers do not include elder cases submitted as misdemeanors and assigned directly to the Misdemeanor Unit or those assigned to other units in lieu of the Elder Unit.

The following bullets summarize the comments provided by staff members interviewed from law enforcement agencies. The corresponding data they provided also confirmed these statements.

- The number of cases received is increasing
- A significant number of incidents go unreported
- Crimes related to physical abuse were the most reported because they were the most visible
- Financial crimes may be just as high or higher than physical abuse crimes, but for various reasons, often go unreported
- A significant number of elder crimes reported do not move beyond investigation due to insufficient evidence, unwillingness of the victim to prosecute, not determined to be a crime, etc.
- The lessening of legal penalties, consequences for committing crimes impacts the ability to reduce it
- For various reasons, crimes against elders are at times assigned to other units for investigation and prosecution

The following should be noted about the elder abuse data requested by the Grand Jury and provided, that make drawing conclusions challenging. Elder crime data was only requested from the Fresno Police Department and the Fresno County Sheriff's Office, as they are the major reporters of crime in Fresno County. Requests were not made of other law enforcement agencies/police departments such as Clovis, Sanger, Selma, etc. Thus, while those involved may be able to adequately manage the cases reported to them, the "real" number of those being abused is unclear. Thus, the true extent of the problem is not readily known which can impact adequately planning for the future.

Challenges to Reporting

It is estimated that one in ten people age 60 and older are abused, neglected or financially exploited. Experts believe that for every reported case of elder abuse or neglect, as many as 23.5 cases go unreported. Underreporting by victims or family members or their unwillingness to prosecute is also generally acknowledged and attributed to many reasons. Also, crimes committed against elders are at times not charged as elder crimes, but may be, for various

reasons charged under another penal code violation. Once again, the numbers provided by credible sources do not provide the full scope of the issue.²²

Underreporting of elder abuse was acknowledged by those interviewed and is supported by documents reviewed as a part of this investigation. Service providers indicated the reluctance of senior victims to report the abuse they are encountering and, unlike child abuse, the victim has the right to decline services as well as to decline to report the abuse and/or the perpetrator. This confirms what is cited by multiple sources. Reasons for this include fear of retaliation, loss of independence; having to live in a facility; shame; not seeing it as abuse; and protection of the family member when a family member is the perpetrator. Abuse often occurs in the family setting and elders can be reluctant to accuse, or testify against relatives. Elders suffering from dementia have difficulty participating in an investigation or trial.

Reporting agencies engage victims to help them understand situations as abusive and encourage them to report it. Staff also help the elder to become aware of other alternatives to their current situation, to see viable options for them, and to connect them to needed services. Elder service providers acknowledge that when the elder is legally determined to be of sound mind, the elder has the right of self-determination and independence, which at times can be at odds with personal safety.

Reporting Elder Abuse

Anyone can report suspected elder or dependent adult abuse to authorities. To whom they report depends on several somewhat overlapping and confusing variables. A review of California codes finds five agencies as possible elder abuse report recipients. At the state level, reports can be made to the State Departments of Health or Social Services licensing agencies, and the California DOJ Bureau of Medi-Cal Fraud and Elder Abuse. Locally reports can be made to Adult Protective Services, law enforcement, and LTC Ombudsman programs. Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult whether they are paid for their service or not is a “mandated reporter” and must report suspected elder and/or dependent adult abuse to APS, the county LTC Ombudsman, or local law enforcement.²³

Healthcare providers, clergy, APS workers, and LTC Ombudsman are also mandated to report elder abuse. Mandated reporters are to report by phone as soon as possible and follow up by submitting form SOC 341 for all abuse, excluding financial abuse, within two days. Failure to report is a misdemeanor, punishable by incarceration and/or fine. Failure to report abuse that results in death or great bodily harm has higher penalties. Banks and other financial institutions

²² *Elder Abuse and Its Impact: What You Must Know*, U.S. Administration for Community Living, National Center on Elder Abuse, February 2015, <https://ncea.acl.gov/NCEA/media/Publication/Elder-Abuse-and-Its-Impact-What-You-Must-Know-2013.pdf>.

²³ *Mandated Reporter Flow Chart*, California Department of Aging, <https://oag.ca.gov/sites/all/files/agweb/pdfs/bmfea/mandate-reporter-flow-chart.pdf>.

are “mandated reporters” as well, and must report suspected financial abuse to law enforcement.²⁴

Responsibility for responding to reports of elder abuse depends on the location of the suspected abuse. Responding agencies cross-refer as required by law. Appendix E presents a flowchart for reporting abuse taking place within a facility. If the initial report is made to the LTC Ombudsman or APS, and the victim agrees to reporting the abuse, and a law has been violated or highly suspected of being violated, a referral is made to law enforcement. If after investigation law enforcement determines that a law has been violated, the case is referred to the DA for possible prosecution. This is a simplified description of a community’s legal response to elder abuse and does not include several factors noted during the investigation.

Fresno County Department of Social Services - Adult Protective Services

Adult Protective Services (APS) is mandated by state and federal laws to respond to complaints of elders (age 65 and over) and dependent adults (age 19 to 64) when they are unable to meet their own needs, or are victims of abuse, neglect or exploitation. APS responds to and evaluates these reports, as well as reports of unsafe living conditions regarding independent elders living in their home or in non-licensed facilities. APS can provide short term education and case management to assist the elder and their families in navigating systems that provide advocacy, counseling, money management, out-of-home placement, or conservatorship services. APS services are expected to be short-term, but the demand for longer term assistance and support has been a concern by many. APS calls Multi-disciplinary Team meetings (MDTs) bringing together key agencies and disciplines for the purpose of determining how best to meet the needs of difficult cases of abuse reported to them.

APS employees are mandated reporters and must refer to law enforcement incidences of physical abuse they observe. Unlike child abuse, if not directly observed by a mandated reporter, the elder victim must consent to reporting. APS works with local law enforcement on complex cases referred to them. Not all substantiated cases of elder abuse are referred to law enforcement, as they may not be crimes, especially in the case of self neglect.²⁵

Some compare the way elder abuse is handled today to the way it was for children 40 years ago. Since the 1980’s counties have been required to have local systems of care for child welfare clients and report detailed data and outcomes. Currently there is no elder system of care or comprehensive consolidated elder data collection at the state level like there is in child welfare. While child welfare clients have service options including out of home placement and can be

²⁴ California Department of Social Services, Adult Protective Services, <http://www.cdss.ca.gov/inforesources/Adult-Protective-Services>.

²⁵ California Department of Social Services, Adult Protective Services, <http://www.cdss.ca.gov/inforesources/Adult-Protective-Services>.

monitored for extended periods of time to ensure their safety, without an elder welfare system of care, services and time involvement are significantly limited.²⁶

California's Adult Protective Services categorizes elder abuse as follows:

- **Physical:** e.g. Hitting, kicking, burning, dragging, over or under medicating
- **Sexual Abuse:** e.g. Unwanted sexual contact, exploitation, forced viewing of pornography
- **Abandonment:** e.g. Desertion by anyone having responsibility for care
- **Isolation:** e.g. Preventing the individual from receiving mail, telephone calls, visitors
- **Financial:** e.g. Theft, misuse of funds or property, extortion, duress, fraud
- **Neglect:** e.g. Failure to provide food, clothing, shelter, or health care for an individual under one's care when the means to do so are available.
- **Self-neglect:** e.g. Failure to provide food, clothing, shelter, or health care for oneself (includes hoarding)
- **Mental suffering:** e.g. Verbal assaults, threats, causing fear.²⁷

Currently Fresno County Adult Protective Services has approximately 20 funded case manager positions; at any given time 17-20 of those positions are filled. Between 2016 and 2018 caseloads ranged between 22 to 36. In 2017, caseloads were 30 and over per case manager in eleven of the twelve month reporting periods due to unforeseen staffing issues. Monthly caseloads were maintained at 29 or less per case manager in 2018. While there are no current APS standards for caseloads, interviewees stated Fresno County strives to maintain caseloads at 25 per case manager.

At the State level, county caseload data submitted has only been kept for the last two years and is typically not included in APS State reports. This void exemplifies existing elder data issues noted at all levels of government. In response to a federal mandate for states to develop and improve data collection systems to align with the National Adult Maltreatment Reporting System (NAMRS), California developed new data guidelines. In January 2019, all counties in the state were to begin entering data following the new guidelines.²⁸

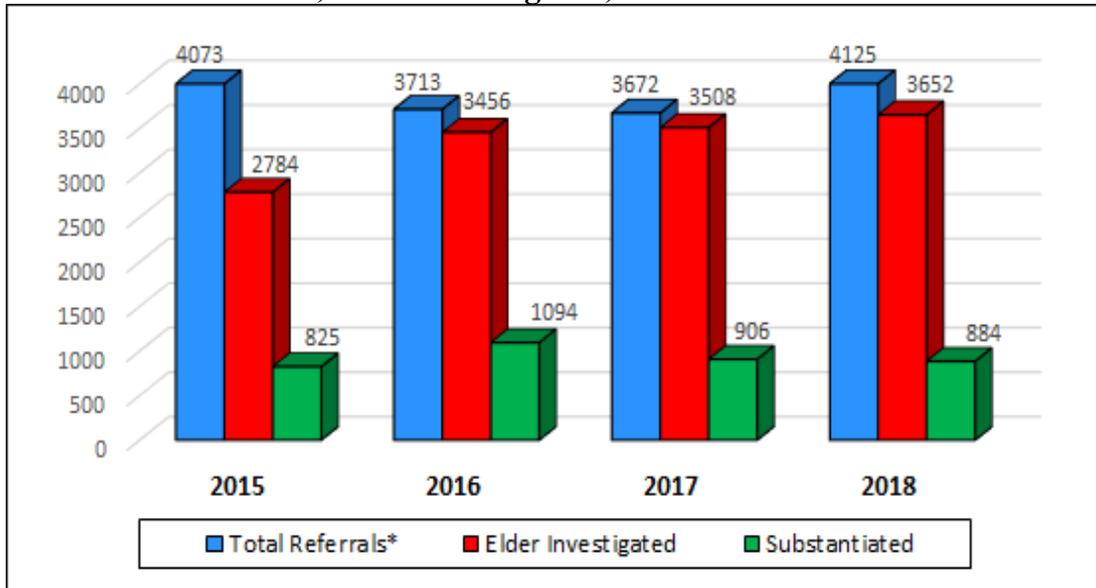
The charts that follow were developed using data provided by the Fresno County Department of Social Services (DSS) Adult Protective Services (DSS-APS).

²⁶ *Adult Protective Services (APS) Program Overview*, California Department of Social Services Adult Programs Division, APS Assembly Budget Subcommittee #1, State Senate Budget Subcommittee #3, March 2019, <http://www.cdss.ca.gov/Portals/9/Budgets/APS%20Overview%202.12.19.pdf?ver=2019-03-12-111848-977>.

²⁷ California Department of Social Services, Adult Protective Services, <http://www.cdss.ca.gov/inforesources/Adult-Protective-Services>.

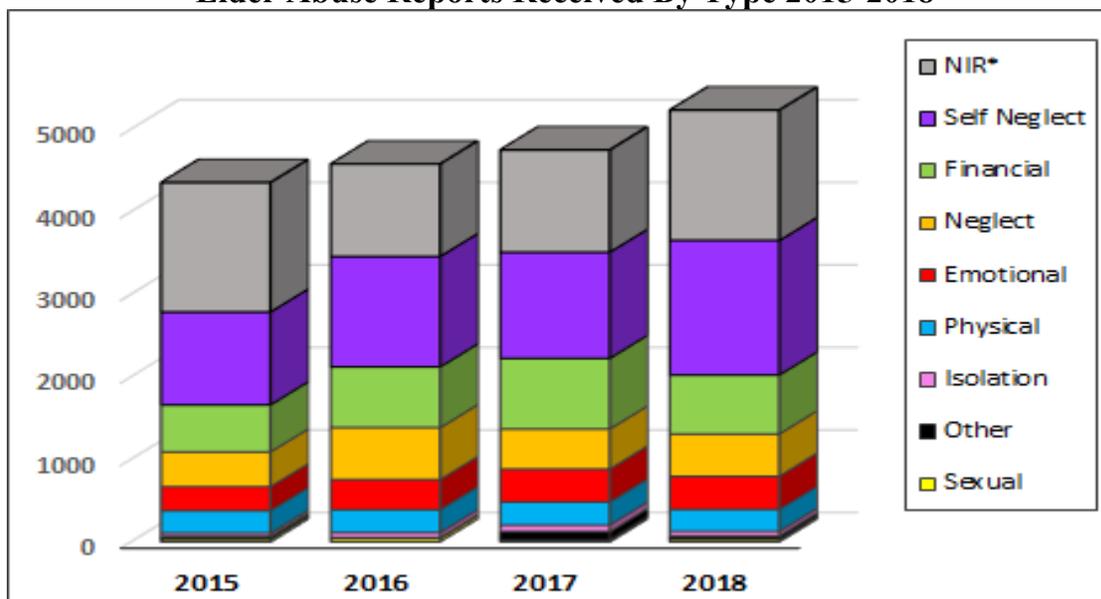
²⁸ *Adult Protective Services (APS) Program Overview*, California Department of Social Services Adult Programs Division, Assembly Budget Subcommittee #1, State Senate Budget Subcommittee #3, March 2019, <http://www.cdss.ca.gov/Portals/9/Budgets/APS%20Overview%202.12.19.pdf?ver=2019-03-12-111848-977>.

Fresno County Adult Protective Services Referrals Received, Elder Investigated, Elder Substantiated 2015-2018



*Total Referrals includes abuse referral received for Elders (age 65 and over) and Dependent Adults (age 19-64).
Source: Fresno County Department of Social Services, Adult Protective Services, referral data 2015-2018

Fresno County Adult Protective Services Elder Abuse Reports Received By Type 2015-2018



*NIR Reports (No In Person Response) are not included in above charts. NIRs are reports received when an in-person response is not needed because of one or more of the following. APS: 1) Was unable to obtain adequate information to contact/locate the elder/dependent adult; 2) Determined the individual moved out-of-state or out-of-county; 3) Determined that the individual was deceased and no other elder dependent adult was at risk; 4) Determined the report duplicates an existing report or resolved cases.²⁹

Source: Fresno County Department of Social Services, Adult Protective Services, referral data 2015-2018

²⁹ California Department of Social Services, All County Letter (ACL) No. 13-22, May 7, 2013, <http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2013/13-22.pdf>.

As indicated in the chart above, Self Neglect is the most often reported type of abuse and it is not a crime. Those interviewed shared, that it is one of the most difficult to resolve because it relates to elder loss of independence and self-determination.

The Home Safe Program was established in 2018 in California by AB 1811 with funds released in 2019. Fresno was one of 24 counties awarded funds to provide homelessness prevention and short-term housing interventions to support safety and housing stability. Funding is to support APS clients that are homeless or at risk of homelessness due to adult abuse, neglect, or financial exploitation. Awards were made based on local need, the ability to use evidence-based practices, to quickly implement with strong partnerships, and to provide quality data to facilitate program evaluation. Under the oversight of Fresno County APS, a short term stay facility is expected to be operated directly by the County or through contract by another organization. This new program provides an opportunity for APS staff to immediately relocate at risk elders into alternative housing.³⁰

APS staff will soon benefit from standardized APS staff training. The 2016 Budget Act designated one-time funding of \$3 million matched by \$3 million in federal funds to train APS social workers, Public Administrators, Guardians, and Conservators to serve the elder population. This is the first statewide standardized elder abuse training for APS staff. Contracts were established with three Regional Training Academies (San Diego State University, UC Davis, and CSU Fresno). San Diego State is developing the curriculum and oversight is being provided by the California State University Fresno Foundation, the Central California Adult Services Training Academy under the auspices of Fresno State's Department of Social Work will provide face to face and online training for APS staff. As the funding was limited to initial training, efforts are expected to be made to secure funds to provide ongoing staff training as well.^{31,32}

In-Home Supportive Services (IHSS) is another Department of Social Services program. It provides personal care services to low-income elders and disabled individuals to assist them in continuing to live in their homes. Service providers can be relatives or IHSS registered providers trained by IHSS. The provision of care in the home has the potential to put elders at risk of abuse due to potential for isolation, and inadequate provider training and monitoring. IHSS is expected to be significantly impacted by the projected increase in number of elders needing IHSS assistance.

³⁰ *Home Safe Program Fact Sheet*, California Department of Social Services, January 2019, <http://www.cdss.ca.gov/Portals/9/Housing/Home%20Safe%20Fact%20Sheet1.22.19%20FINAL.pdf?ver=2019-03-04-112730-110>.

³¹ *California Senate Budget and Fiscal Review Agenda*, California Senate Committee on Budget and Fiscal Review, Holly J. Mitchell, Chair Subcommittee No. 3., Consultant: Renita Polk, March 14, 2019, https://sbud.senate.ca.gov/sites/sbud.senate.ca.gov./files/03_14_19_Dept_of_Aging_Senior_Legislature_Dept_Social_Services_Agenda_FINAL.pdf.

³² *Adult Protective Services (APS) Program Overview*, California Department of Social Services Adult Programs Division, APS Assembly Budget Subcommittee #1, State Senate Budget Subcommittee #3, March 2019, <http://www.cdss.ca.gov/Portals/9/Budgets/APS%20Overview%202.12.19.pdf?ver=2019-03-12-111848-977>.

Over the next few years, the Fresno County Department of Social Services (DSS) will consolidate many of their services as they move to a new campus with several buildings providing an improved work and service delivery environment. DSS will move from 30 locations to this new campus, leaving 10 other locations scattered throughout Fresno County, most in satellite centers in rural areas. Though DSS-APS is expected to move from its location at the Senior Resource Center (SRC) to the new location in the future, the value of working in close proximity with other elder providers is acknowledged and continuing the co-location of other providers at the site will be pursued. Though the location is not considered by some to be centrally located or easily accessed, securing FAX bus routes to the new location could address this. Ensuring that the DSS funded neighborhood resource centers located throughout Fresno County are knowledgeable of elder crime and related services could help as well.

Long Term Care Ombudsman Program

The California State Long-Term Care (LTC) Ombudsman Program³³ is authorized by the federal Older Americans Act and its State companion, the Older Californians Act. Ombudsmen are to investigate and resolve complaints made by, or on behalf of, **all** residents in long-term care facilities, regardless of age. These facilities include nursing homes, residential facilities for the elderly, and assisted living facilities. A diagram created by the California LTC Ombudsman Program that highlights the role of the LTC Ombudsman in various facilities is Appendix D.³⁴

Facilities are licensed, regulated, inspected, and/or certified by a number of public and private agencies at the state and federal levels. These include the California Department of Public Health (CDPH) Licensing and Certification Division (L&C), California Department of Social Services (CDSS) Community Care Licensing, and U.S. Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS). These agencies have separate -- yet sometimes overlapping -- jurisdictions.³⁵

Most Ombudsman services are provided by volunteers who become certified after 36 hours of training and additional internship hours. They maintain their certification with 12 hours of annual training. There are 35 LTC Ombudsman Programs in California. The LTC Ombudsman serves as an advocate for residents in long term care facilities licensed by the Department of Public Health or the Department of Social Services by identifying, investigating, and resolving complaints (including those of abuse) made by, or on behalf of, residents in their licensed nursing homes, residential care facilities for the elderly, and assisted living facilities.

³³ The information on the LTC Ombudsman Program is provided in this Report solely to assist in the Grand Jury's investigation of local public agencies.

³⁴ *Long Term Ombudsman Program, Equipping California Long-Term Care Ombudsman Representatives for Effective Advocacy: A Basic Curriculum, California's Long Term Care Setting*, California Department of Aging, August 2007, [https://ltombudsman.org/uploads/files/support/Chapter_3_Californias_LTC_Setting\(1\).pdf](https://ltombudsman.org/uploads/files/support/Chapter_3_Californias_LTC_Setting(1).pdf).

³⁵ *From Blueprint to Benchmarks: Building a Framework for Elder Justice*, California Elder Justice Coalition, January 2016, https://www.elderjusticecal.org/uploads/1/0/1/7/101741090/cejc_blueprint2016.pdf.

The ombudsman, as an elder advocate, tries to resolve complaints between those directly involved. The ombudsman cannot report suspected abuse without the elder’s consent unless it is life threatening or they observe it. The ombudsman must obtain approval from the State Ombudsman in order to report abuse without the involved elder’s consent, which can be difficult given the level of staffing at the state level for local support.³⁶ Ombudsmen provide training and education on elder rights, abuse, reporting, etc. to facility staff, as well as to the public at churches, senior groups, etc. They also assist facility residents with setting up Resident Councils and Family Councils.^{37,38}

Locally the Fresno-Madera Area Agency on Aging (FMAAA) contracts with the Valley Caregiver Resource Center (VCRC) to provide LTC Ombudsman services in Fresno and Madera Counties. A breakdown of LTC data by county was unavailable but 2017 Census Bureau indicates that Fresno County’s population for ages 65 years and older is five and one-half times that of Madera County.(Approximately Fresno 100,900; Madera 20,200).³⁹ The data provided by VCRC’s LTC Ombudsman Program is locally reported to the State and included in the National Ombudsman Reporting System (NORS). As noted in the Complaints Received Chart, physical abuse is the most often reported to the LTC Ombudsman. Data pulled for the 2014/15 and 2017/18 reporting period reflects increases as follows.⁴⁰

<ul style="list-style-type: none"> • Facilities increases from 225 to 270 	<ul style="list-style-type: none"> • Beds increased from 8000 - 8300
<ul style="list-style-type: none"> • Paid staff increased from 2 to 4.25 	<ul style="list-style-type: none"> • Volunteer staff increased from 20 to 30
<ul style="list-style-type: none"> • Volunteer hours increased from 3000 to 5300 	

³⁶ *The California Long-Term Care Ombudsman Program Designation Standards for Approved Organizations*, California Department of Aging, Program Memo 08-29(P), December 30, 2008, [https://www.aging.ca.gov/PM/PM08-29\(P\)/PM_08-29_ombi_Designation_Standards.pdf](https://www.aging.ca.gov/PM/PM08-29(P)/PM_08-29_ombi_Designation_Standards.pdf).

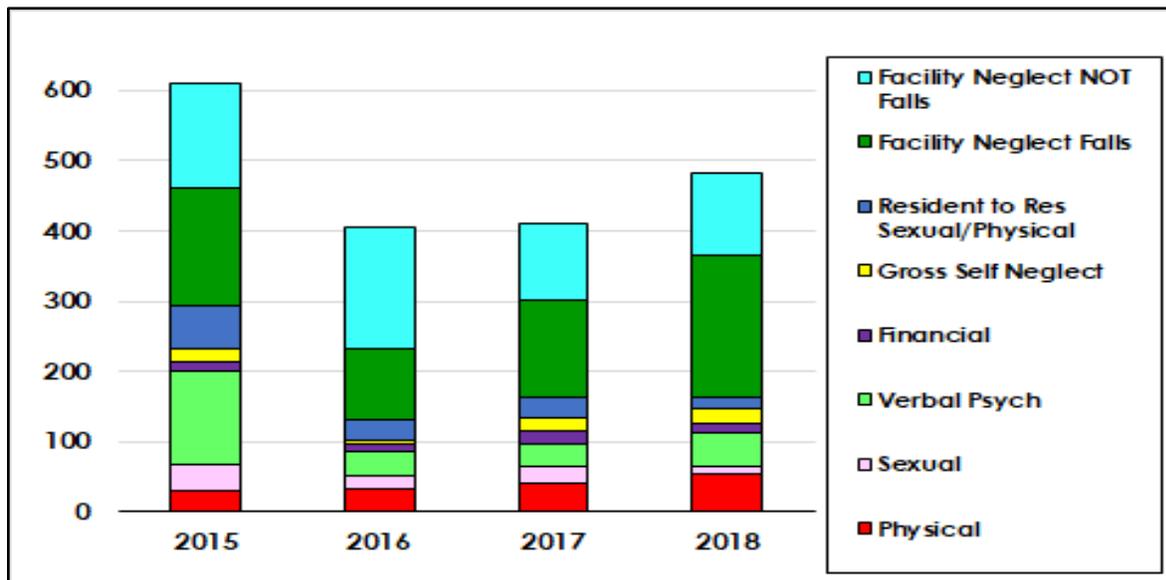
³⁷ U.S. Administration for Community Living, Long Term Care Ombudsman Program, <https://acl.gov/programs/protecting-rights-and-preventing-abuse/long-term-care-ombudsman-program>

³⁸ California Department of Aging, Long Term Care Ombudsman Program, <https://www.aging.ca.gov/ProgramsProviders/LTCOP>.

³⁹ U.S. Census Bureau, https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml.

⁴⁰ National LTC Ombudsman Reporting System (NORS), https://ltcombudsman.org/omb_support/nors.

LTC Ombudsman Complaints Received 2014/15-2017/18



Source: Valley Caregiver Resource Center, LTC Ombudsman Program, data submitted to the National Ombudsman Reporting System(NORS) FY 2014/15-2017/18

Law Enforcement and Prosecution

County law enforcement personnel are responsible for investigating suspected elder and/or dependent adult abuse. Even if an arrest is not made the responding officer is required to investigate and write a report that is reviewed by the supervising officer. The reports may also be sent to APS or the county LTC Ombudsman Program for further action depending upon whether the abuse occurred in an in-home situation or a long-term care facility.

While what the elder has experienced may be “wrong,” it may not be a crime. Detectives will investigate to determine if a crime has been committed, and if so, the detective will refer the case to the District Attorney (DA) to consider for prosecution. Investigation, as well as reporting and prosecuting, becomes challenging when the elder’s cognitive capacity is uncertain. A review of medical records or a medical evaluation may be required in order to determine the reporting path to take. The detective may also refer the victim to Victim Services for support and assistance.

If investigation determines that a crime has not been committed, the elder can be referred to other elder abuse agencies to help resolve their problem. In situations where the elder is not capable of self-care and has no one who can assist them, then a referral is made to the Public Guardian.

Fresno Police Department’s (FPD) Elder Abuse Unit has two detectives assigned to it. The Unit is housed with Financial Crimes and at times the Financial Crimes Unit detectives assist with elder fiduciary crime investigations. Many years ago the detectives were co-located at the

Senior Resource Center (SRC). Although detectives do limited public and professional outreach, the FPD's Citizens on Patrol, recently created a presentation highlighting financial exploitation of elders, which they plan to present to community elder groups.

The Fresno County Sheriff's Office has 1.5 detectives assigned to the Elder Unit which is housed at the SRC located at Dakota and Blackstone. Staff assigned to the SFO Elder Unit are experienced and dedicated to serving elders and work closely with other involved agencies, provide limited informational presentations and participate in local elder coalitions and collaboratives. Staff also work with national law enforcement agencies in the development of EAGLE (Elder Abuse Guide for Law Enforcement) a new tool to assist officers in the field in their work with elders.

The Fresno County District Attorney's Office is charged with prosecuting cases of elder abuse and/or dependent adult abuse when warranted. There is one experienced elder abuse prosecutor who has been assigned to this Unit for many years. The prosecutor is dedicated to serving elders and their families and works closely with other agencies. During the prosecutor's review of the information, he/she may assign the case to another unit for prosecution. The assigned DA prosecutes all felony crimes charged as Elder Abuse and some misdemeanors, though most are handled by the Misdemeanor Unit. Many of the prosecutor's cases are settled prior to or during trial. Criminal charges where the victim is an elder or dependent adult, can receive enhanced penalties, even if it was not cited in the initial report. In the past, the prosecutor was co-located at the SRC but over the years his office has moved to various locations. The prosecutor has done public and professional outreach to encourage prevention as well as reporting. In the past, the prosecutor also convened the Elder Death Review Team which no longer meets.

There are three additional avenues used, as needed, by law enforcement when assisting an elder and/or family member with other support options:

- Victim's Services are provided through the Fresno County Department of Probation. Two staff located at the Fresno Senior Resource Center are assigned to assist elder victims and their families. They can assist with obtaining crisis intervention services, referrals for emergency services like food, shelter, clothing, counseling, restraining order, court support, apply for violent crime compensation through the state, and other support services.⁴¹
- The Fresno County Public Guardian may be contacted when it is determined that the elder cannot adequately provide for their own needs or manage their own finances and have no one else to assist them. The Guardian investigates the need for conservatorship, and based upon the findings may file a petition with the court asking to be appointed as conservator. The ability of Fresno County's Office of the Public Guardians to meet the needs of the community is unclear at this time, but should be considered for review.⁴²

⁴¹ Fresno County Crime Victim Services, <https://www.co.fresno.ca.us/departments/probation/crime-victim-services/crime-victim-faq>.

⁴² Fresno County Department of Behavioral Health, Public Guardian, <https://www.co.fresno.ca.us/departments/behavioral-health/public-guardian>.

- The Fresno County Department of Behavioral Health’s Older Adult Mental Health Clinic provides behavioral health services to referred adults at or near age 60 years old and older who have a significant impairment due to mental illness. Located at the Fresno Senior Resource Center, the team works with the family and other agencies including APS, IHSS, the County Ombudsman, healthcare providers, and others involved with the elder. ⁴³

Elder Vulnerability and Perpetrators

Isolation can create situations and conditions that enable abuse to occur unnoticed. Isolation from family and friends can create an environment for caretaker “undue influence.” When a relationship between the elder and another person is not equitable, one can take advantage of the other. The dysfunction of families known to the child welfare system may surface again in the elder abuse arena as roles reverse and relationships become strained, the abused may become the abuser.

At high risk of elder abuse, as described in a California Department of Justice (DOJ) publication distributed by DOJ on March 15, 2019 at a Clovis Senior Center presentation, are elders 75 years and older, frail or physically disabled, socially or physically isolated or suffering from dementia and when caregivers are stressed, depressed or substance using.⁴⁴

The Centers for Disease Control and Prevention (CDC) identifies individual, relational, community, and societal as well as institutional factors as contributing perpetrator risk factors that can directly or indirectly result in elder abuse⁴⁵.

- **Individual factors** include mental illness; abuse of alcohol hostility; inadequate caregiver preparation; caregiving at an early age; poor coping skills; abused as a child.
- **Relationship factors** include caretaker financial and emotional dependence on the elder; experience of disruptive behavior; lack of social and formal support.
- **Community factors** include lack of or inaccessibility to adequate services for providers.
- **Societal factors** include having a culture that tolerances and acceptances aggressive behavior; allows healthcare, guardians, and others freedom in routine care and decision making; family members expected to care for elders without help; individual expected to endure and remain silent about their suffering and pain; and negative beliefs about aging and elders.
- **Institutional setting factors** include staff being unsympathetic or negative attitudes toward residents; chronic staffing problems; and inadequate administrative oversight, staff burnout, and stressful working conditions.
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⁴³ Fresno County Department of Behavioral Health, <https://www.co.fresno.ca.us/departments/behavioral-health/adult-system-of-care>.

⁴⁴ *A Guide to Prevention and Reporting Abuse and Neglect of Elders and Dependent Adults*, California Department of Justice, Office of the Attorney General, (no publication date).

⁴⁵ Centers for Disease Control and Prevention, <https://www.cdc.gov/violenceprevention/elderabuse/riskprotectivefactors.html>.

Public Awareness

Many interviewed identified the lack of elder abuse prevention public awareness, with several noting that animal cruelty receives more “airtime” than elder abuse. Several indicated that their agencies’ budgets did not allow for adequate education and provided it only as their funding mandated. Others provided elder abuse public awareness information even when there were no funds to support it because they felt it was important. In general, education and outreach is currently minimally provided by a few organizations to targeted audiences. It is not comprehensive and does not reach a wide enough audience to make it effective. In general, most interviewed indicated that public awareness was key to prevention, by addressing the issues and stopping the abuse before it happens.

Agewell Fresno is a local website that provides information about elder services, information that promotes elder well-being, research based information, and evidence-based best practices in the aging care community. An Agewell Magazine is published several times a year.⁴⁶

“World Elder Abuse Awareness Day Event” to be held in Fresno on June 21, 2019 is sponsored by three elder serving agencies, The Valley Caregiver Resource Center, Fresno-Madera Area Agency on Aging, and Fresno County Adult Protective Services. This is the second year for this event which includes participation from many providers as guest speakers. There is well deserved media coverage of the event, which helps shine a spotlight on this important day.⁴⁷

Collaborative Efforts

Currently relationships between local public agencies and other agencies established by law appear to be strong though informal. Small groups have formed over the years to address specific identified issues and gaps. Some collaboratives have experienced better results than others. As workloads increase without associated resource increases, the ability of those close to the issues are stretched to levels that make participation in collaborative efforts more difficult. With staff turnover and the retirement of key individuals in the next few years as noted by many organizations, there is the potential for relationships to wane and informal ones to fade. The introduction of AB1136, is an attempt at the state level to reduce fragmentation and to develop a coordinated method for serving elders. Models of comprehensive elder systems of care have already been implemented by counties who have acknowledged the need.⁴⁸

Elder plans, required by the OAA, are submitted by the state Department of Aging and local AAAs. The current State Plan delegates responsibility to the local AAAs to directly or by subcontract, provide Programs for the Prevention of Elder Abuse, Neglect and Exploitation

⁴⁶ Agewell Fresno, <https://www.agewellfresno.com/fresno-aging-population-demographics>.

⁴⁷ Fresno-Madera Area Agency on Aging, <https://fmaaa.org/save-the-date-world-elder-abuse-awareness-day-event-june-21/2019/01/16>.

⁴⁸ AB-1136 California Department of Community Living, California Legislative Bill Information, http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1136.

under Title VII, Chapter 3 of the OAA. These services include public education sessions, distributing educational materials, training sessions for professionals and family caregivers served by Title III E, and developing a coordinated system to respond to elder abuse.⁴⁹

Additionally, California has created a Senior Gateway website sponsored by the Elder Financial Abuse Interagency Roundtable (E-FAIR). This roundtable is made up of the following state partner agencies and five participating County District Attorneys, of which Fresno is one. Participating E-FAIR agencies include: the Attorney General's Office/Bureau of Medi-Cal Fraud and Elder Abuse and the California Departments of Aging; Business Oversight; Consumer Affairs; Health Care Services; Insurance; and Managed Health Care.⁵⁰

Local collaborative efforts to address issues were noted by several interviewed. Noted in the literature, as well as through interviews, was that differences in practices and policies, providers and disciplines can lead to significant disparities in prevention, protection, reporting and services. Current elder collaboratives include:

Fresno Senior Resource Center is operated by the Fresno-Madera Area Agency on Aging (FMAAA) through a joint powers agreement between Fresno City, Fresno County and Madera County. The primary purpose of the 33 Area Agencies on Aging (AAA) is to administer the OAA at the local level assisting communities with planning, developing and implementing comprehensive and coordinated systems of services for the elderly to include providing services directly or through contracts with other organizations.

The FMAA oversees meals on wheels services through a contract with the Fresno Economic Opportunity Commission (EOC). It also operates three case management programs each with different eligibility criteria and with a one to three year wait for service. FMAAA contracts with Valley Caregiver Resource Center (VCRC) for LTC Ombudsman Program services and with Central California Legal Services for elder legal services. The FMAA monitors all contracts closely to ensure compliance with the federal OAA, terminating them when determined to be out of compliance.⁵¹

The FMAAA is one of several elder providers located at the Center campus at Dakota and Blackstone and is the title holder of the property. In 2002, when the Center was opened, there was optimism that it could serve as a hub for Fresno seniors. There were close to 15 agencies with staff co-located there. Over the years the number of agencies with staff located at the Center has declined and the ability for the Center to continue as a senior hub is uncertain. While some value having a “one stop shop” where seniors can get face to face services from multiple agencies at the same time, and where agencies can interact to serve joint clients, others

⁴⁹ *California State Plan on Aging – 2017-2021*, California Department of Aging, https://www.aging.ca.gov/docs/Highlights/CSP_Plan_Aging/California%20State%20Plan%20on%20Aging%202017-2021.pdf.

⁵⁰ Senior Gateway, State of California Elder Financial Abuse Interagency Roundtable (E-FAIR), hosted by the California Department of Insurance, <http://www.seniors.ca.gov/AddpartDAoffices.cfm>.

⁵¹ *Area Agencies of Aging, Selected Best Practices*, U.S. Health and Human Services, Office of Inspector General, Office of Analysis and Inspections, September 1987, <https://oig.hhs.gov/oei/reports/Oai-03-87-00021.pdf>.

don't see the value. Economics and location safety concerns appear to be impacting participating agencies' ability to continue to offer services at the Center.⁵²

Elder Abuse Prevention Roundtable (EAPRT) was started locally in 1997 with 15 participants. Current members include protective agencies, social services agencies, law enforcement, legal services, senior service providers, private attorneys, and advocates. "The mission is to promote greater understanding of the long term social service and support needs of older and dependent adults and to advocate for the development of public policies that target this population through service development and coordination."⁵³

Central Valley Long Term Support and Services Coalition (CVLTSSC) works in partnership with EAPRT, as well as additional organizations to inform and encourage providers and consumers to have a voice in statewide policy discussions.⁵⁴

Elder Abuse Services, Inc. (EASI), is a local nonprofit organization working toward improving shelter, victim advocacy, and coordinated case management services to victims of elder crime and abuse in Fresno and Madera Counties. It began in 2009 with a group of California State University Fresno professors, students and community members. Identified as a gap in service, EASI is currently working to secure funding to operate the first shelter dedicated to serving abused elders in the Fresno and Madera area. Sacramento may be the only county in California with an operating elder emergency shelter, but it does not have a Restorative Justice concept which is a key component of EASI's model. Restorative Justice supports repairing and restoring victim and the abuser relationships.

EASI completed a comprehensive feasibility study of the Fresno and Madera region and developed a business plan. Over the years community supporters, as listed on their brochure, have included the Fresno County Sheriff's Office, Fresno Police Department, Valley Caregiver Resource Center, Clovis Senior Center, as well as other local elder service providers.⁵⁵

Fresno County Elder Death Review Team (EDRT), though no longer operational, in the past was convened by the District Attorney Elder Unit prosecutor to review and discuss individual cases of questionable elder death to assist with determining if charges should be filed. Sacramento County is one of several counties with an Elder Death Review Team (EDRT). The Sacramento team has met six times a year since 1999. Per Penal Code, in addition to forensic pathologists, coroners/medical examiners, public guardians, and law enforcement, representatives of local agencies providing elder protective services and reporting elder abuse or neglect can also attend the EDRT meetings. EDRTs can also make recommendations related to

⁵² Fresno-Madera Area Agency on Aging, <https://fmaaa.org/author/admin>.

⁵³ Agewell Fresno, The Central Valley Long Term Support and Services Coalition, <https://www.agewellfresno.com/cvltss>.

⁵⁴ Ibid.

⁵⁵ Elder Abuse Services, Inc., <https://www.easi-fresno.org>.

education, prevention, and prosecution strategies in order to improve the coordination of services for families and the elder population.^{56,57}

Multi-disciplinary Team meetings (MDTs) are convened by Fresno's Adult Protective Services (APS). MDTs bring together key agencies and disciplines and are held, as needed, for the purpose of determining how best to address the needs of those involved in difficult cases of abuse, to ensure client safety and to reduce risk for future abuse.

Innovations, Models and Resources

Within California, innovative models are being designed, implemented and tested by communities and agencies in an effort to improve their community's ability to consistently and comprehensively address issues of elder abuse within their jurisdiction. While some communities have secured grants to support change, others have been able to do it without grant support. With or without grant support, communities have had the ability to garner sufficient local support from key players who recognize the problem and are open to working together to address it collaboratively and comprehensively. From prevention education, to elder court development, to staff training, and tools to support staff in the field, the innovations listed below are but a few available that Fresno County could consider.

The Elder Abuse Justice Coalition was created in 2008 to address systemic barriers to elder justice. In 2010, the group hosted the first state elder justice summit, which brought together 92 experts to explore challenges and solutions. Recommendations that emerged from the summit, as well as focus groups, interviews, and an environmental scan, culminated in the document *Improving California's Response to Elder Abuse, Neglect, and Exploitation: A Blueprint*.⁵⁸

The U.S. Administration for Community Living awarded Elder Justice Innovation Grants program to support emerging practices to prevent and respond to the abuse of older adults and adults with disabilities. Three California sites received awards.

- The University of Southern California (USC) is training APS workers and community-based professionals on the use of a tool to determine client decision-making ability and to develop implementation policies and a toolkit for the use of The Interview for Decisional Abilities tool.
- The University of California, Irvine (UCI) is developing a curriculum and training for APS and agencies to integrate trauma-informed care into their practice. New to the field of elder abuse, it is a framework for service delivery grounded in understanding the

⁵⁶ Sacramento County's District Attorney's Office, <http://www.sacda.org/services/criminal-prosecutions/elder-abuse/edrt>.

⁵⁷ *Penal Code Section 11174.9*, California Legislation Information, http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=11174.9.&article=2.7.&highlight=true&keyword=elder%20death%20review%20team.

⁵⁸ *From Blueprint to Benchmarks: Building a Framework for Elder Justice*, California Elder Justice Coalition, January 2016, https://www.elderjusticecal.org/uploads/1/0/1/7/101741090/Cejc_blueprint2016.pdf.

impact of trauma. UCI is also testing integration of a case-management component in their elder abuse forensic center and enhance counseling and legal assistance for abuse elders.

- The University of California, San Francisco (UCSF) is piloting the Identification, Services, and Outcomes (ISO) Matrix mobile application in Napa and San Francisco as a tool to assist APS decision making consistency with determining interventions that reduce risk of abuse.⁵⁹

The San Diego Elder and Dependent Adult Blueprint was implemented in 2018. The San Diego District Attorney lead the development of this community effort which began in 2017. The Blueprint provides guidelines that supports best practices for law enforcement, first responders, and state agencies such as the DOJ Bureau of Medi-Cal Fraud and Elder Abuse, and state facilities licensing agencies in their collective response to serving elders. It includes quarterly the Elder Death Review Team Meetings.⁶⁰

The FAST "Financial Abuse Specialist Team" (FAST) was established in 1999 in Santa Clara County's Department of Aging and Adult Services. It is composed of representatives from Santa Clara County's Adult Protective Services, the Public Guardian, the District Attorney's Office and County Counsel's Office. The team works quickly and efficiently to identify, investigate and prevent financial abuse of elders and dependent adults. As part of FAST, County Counsel initiates civil protective proceedings for incompetent elderly individuals and brings civil actions on behalf of the Public Guardian to recover estates taken from these individuals. A referral to FAST triggers a response by at least two members of the team.⁶¹

The Santa Clara County Law Enforcement Elder and Dependent Adult Abuse Protocol was developed in 2010. Recognizing "differences in practices and policies by the many disciplines that provide service to dependent adults and elderly victims can lead to significant disparities in prevention, protection, reporting and service to those victims" and it's impact. Agencies came together to promote a comprehensive coordinated method of addressing elder abuse, neglect and exploitation. Santa Clara County's Law Enforcement Agencies, District Attorney's Office, County Counsel's Office, Social Services Agency-Department of Aging and Adult Services, Victim Witness and LTC Ombudsman Program are signatory agencies.⁶²

Contra Costa County Elder Court has been held every Tuesday since 2008. Partner agencies coordinate their efforts to serve seniors under the leadership of the court. Senior peer counselors provide support and the courtroom itself is designed for seniors. One judge is assigned to the Court. The Judge may assign a mediator to help resolve family issues and peer

⁵⁹ U.S. Administration for Community Living, Elder Justice Innovation Grants, <https://acl.gov/programs/elder-justice/elder-justice-innovation-grants-0>.

⁶⁰ *San Diego County Elder and Dependent Adult Abuse Blueprint*, San Diego County District Attorney, 2018, <https://www.sdca.org/helping/elder-abuse-blueprint.pdf>.

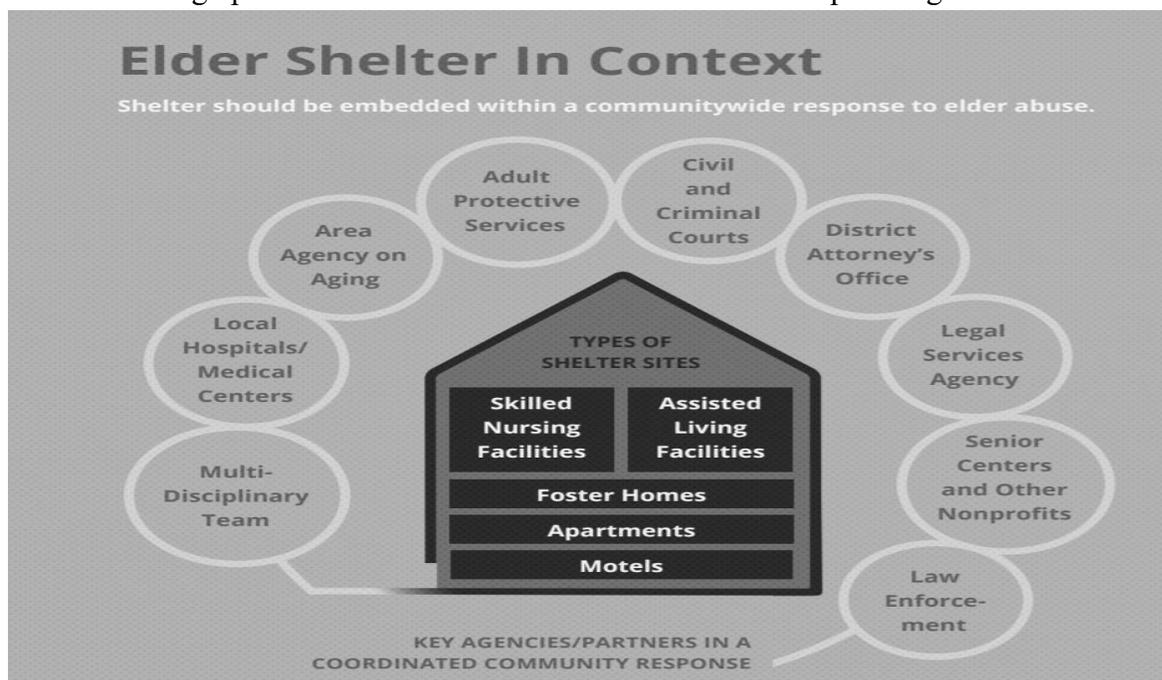
⁶¹ Santa Clara County, Office of the County Counsel, <https://www.sccgov.org/sites/cco/Pages/fast.aspx>.

⁶² *Elder and Dependent Adult Abuse Protocol for Santa Clara County Law Enforcement*, Santa Clara County, Law Enforcement Protocol, July 2010, https://www.sccgov.org/sites/ssa/daas/aps/Documents/daas_elder_dependent_adult_protocol.pdf.

counseling may continue after court. Partner agencies also provide education and outreach to the community. This model has been replicated in Santa Barbara County.⁶³

Sonoma County has established a comprehensive, interagency system of care to serve it's elders. The system includes regularly scheduled and attended Multi-Disciplinary Team (MDT) Meetings facilitated by APS. A FAST was established to address financial abuse. The Family Justice Center Sonoma County (FJCSC) provides a single point of access to comprehensive services for victims of family violence, including domestic violence, dating violence, elder abuse, child abuse and sexual assault. FJCSC onsite agencies include Police, Sheriff, Victim Services, Council on Aging, and several other elder serving nonprofit agencies with an additional 20 listed as offsite partners.^{64,65,66}

Sonoma has received several elder safe housing grants that enables the county to offer a variety of temporary and transitional shelter options such as apartments, assisted living and skilled nursing facilities, and motels. Sonoma's model is included in "Shelter, The Missing Link In a Coordinated Community Response to Elder Abuse" a 2019 publication of The Weinberg Center for Elder Justice. Following is a visual from the Weinberg publication that provides a visual of elder safe housing options that communities should consider when planning.⁶⁷



⁶³ California Courts, The Judicial Branch of California, Elder Court, <https://www.courts.ca.gov/14124.htm>.

⁶⁴ Sonoma County Human Services Department, *A Collaborative Approach to Multidisciplinary Teams in Sonoma County*, Adult and Aging Services Division, August 31, 2012, <http://www.centeronelderabuse.org/docs/A-Collaborative-Approach-to-Multidisciplinary-Teams-in-Sonoma-County.092812.pdf>.

⁶⁵ Sonoma County, Sheriff's Department, Family Violence, <https://www.sonomasheriff.org/domestic-violence>.

⁶⁶ Sonoma County, Family Justice Center, <https://www.fjcsc.org>.

⁶⁷ *Shelter, The Missing Link In a Coordinated Community Response to Elder Abuse*, January 2019, The Weinberg Center for Elder Justice, http://theweinbergcenter.org/wp-content/uploads/2018/12/WCEJ_Shelter-report_FINAL3.pdf.

UC Irvine's Center of Excellence on Elder Abuse and Neglect is part of the School of Medicine's Division of Geriatric Medicine and Gerontology. Established in 2005, it provides technical assistance, multidisciplinary training, research and policy issue information related to elder abuse. Its website provides links to best and innovative elder practices. Many of the innovations included above can be searched and have links on this website. The Center developed the *Geriatric Pocket Doc* for use by non-healthcare elder service providers. The Center of Excellence administered the U.S. Administration on Aging, National Center on Elder Abuse from 2011-2014.⁶⁸

FINDINGS

- F1. All interviewed individuals are dedicated and committed in their service of abused and vulnerable elders. The characteristics and qualities of staff assigned to handle elder abuse are unique and effective.
- F2. Awareness of the “silver tsunami” or significant increase of the elder population was acknowledged by many of those interviewed. However, no formal plan exists among Fresno County Agencies on how to address the anticipated increases in elder abuse case loads.
- F3. While some Fresno County Agencies have an excellent flow of information exchange between staff members, communication and working relationships within and between individuals in agencies and organizations are not consistent. Agencies agreed consistent communication is critical for effective and timely resolution of abuse cases.
- F4. The centralized services available for elders at the Fresno Senior Resource Center have declined over time. It is expected that this Center will eventually close with no replacement planned.
- F5. Fresno County Adult Protective Services does not have sufficient resources to practice proactive intervention directed towards those elders considered to be the most vulnerable to abuse.
- F6. The collection of data from Fresno County Agencies is fragmented, with gaps and duplication, and lacking consistent definitions. It is difficult to gather historical data for trend comparisons and planning.
- F7. There is insufficient funding to adequately address elder abuse and prevention for Fresno County Agencies.

⁶⁸ University of California, Irvine, Center of Excellence on Elder Abuse and Neglect, <http://www.centeronelderabuse.org/search-results.asp?q=innovations>

- F8. Elder abuse is not always reported due to a multitude of complex issues and reasons. Therefore, there is no verifiable way to determine how extensive elder abuse is in our communities.
- F9. Public awareness, education and outreach to all county communities is limited by staff time and resources. These activities take a lower priority when resources are often continuously stretched to handle essential services.

RECOMMENDATIONS

- R1. The Fresno County District Attorney consult with staff assigned to elder abuse to proactively prepare a plan for the impending caseload increase. (F2)
- R2. Fresno County Adult Protective Services develop a method and timeline to effectively collect and use data in order for staff to be proactive in mitigating abuse. (F5)
- R3. The Fresno County District Attorney explore and pursue new sources of funding and grants designated for staffing elder abuse. (F7)
- R4. Fresno County Adult Protective Services take the lead to develop a formalized community approach to public awareness, prevention and education of elder abuse. (F3, F4, F6, F7, F8, F9)

Pursuant to California Penal Code, section 933.05, the Fresno County Grand Jury requests responses to each of the specific findings and recommendations. It is required that responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

- Lisa Smittcamp, Fresno County District Attorney (F1,F2, F7, R1,R3)
- Delfino Niera, Fresno County Director of Social Services (Adult Protective Services) (F1,F2, F3, F4, F5, F6, F8, F9, R2, R4)

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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APPENDICES

Appendix A. Glossary

Appendix B. Elder State and Federal Laws and Legislation, various sources.

Appendix C. California Aging Network, California Department of Aging, *California State Plan on Aging – 2017-2021*, https://www.aging.ca.gov/docs/Highlights/CSP_Plan_Aging/California%20State%20Plan%20on%20Aging%202017-2021.pdf.

Appendix D. Ombudsman Mandated Reporter Protocol, California Department of Justice, Office of Attorney General, Mandated Reporter Flow Chart, <https://oag.ca.gov/sites/all/files/agweb/pdfs/bmfea/mandate-reporter-flow-chart.pdf>.

Appendix E. LTC Ombudsman Facility Presence, Office of the State Long-Term Care Ombudsman, *Longer Term Ombudsman Program, Equipping California Long-Term Care Ombudsman Representatives for Effective Advocacy: A Basic Curriculum, California's Long Term Care Setting*, August 2007, https://ltcombudsman.org/uploads/files/support/Chapter_3_Californias_LTC

Glossary

AAA	Area Agencies on Aging
AB	Assembly Bill
ACL	Administration for Community Living
AoA	Administration on Aging
APS	Adult Protective Services
CCoA	California Commission on Aging
CDA	California Department of Aging
CDCL	California Department of Community Living
CDPH	California Department of Public Health
CHHSA	California Health and Human Services Agency
CDC	Centers for Disease Control and Prevention
CMS	Centers for Medicare and Medicaid Services
CSL	California Senior Legislature
CVLTSSC	Central Valley Long Term Support and Services Coalition
DA	District Attorney
DHHS	Department of Health and Human Services
DOJ	Department of Justice
DOF	Department of Finance
DPH	Department of Public Health
DSS	Department of Social Services
EA	Elder Abuse
EAGLE	Elder Abuse Guide for Law Enforcement
EAPRT	Elder Abuse Prevention Roundtable
EASI	Elder Abuse Services, Inc.
EDRT	Elder Death Review Team
E-FAIR	Elder Financial Abuse Interagency Roundtable
EOC	Economic Opportunities Commission
FAST	Financial Abuse Specialist Team
FCSO	Fresno County Sheriff's Office
FBI	Federal Bureau of Investigation
FJCSC	Family Justice Center Sonoma County
FMAAA	Fresno-Madera Area Agency on Aging
FY	Fiscal Year
ISO	Identification, Services, and Outcomes
IHSS	In-Home Supportive Services
L & C	Licensing and Certification Division
LTC	Long Term Care
MDT	Multi-disciplinary Team meeting
NAMRS	National Adult Maltreatment Reporting System
NORS	National Ombudsman Reporting System
OAA	Older Americans Act
SB	Senate Bill
SRC	Senior Resource Center

SSBG	Social Security Block Grant
UCI	University of California, Irvine
USC	University of Southern California
UCSF	University of California, San Francisco
VCRC	Valley Caregiver Resource Center
WIC	Welfare & Institutions Code

Elder State and Federal Laws and Legislation

A limited list of basic state and federal laws and legislation that provide the framework for elder services including the handling of abuse, as it exists today.

Federal

- The Older Americans Act (OAA) of 1965 created the Administration on Aging (AoA) under the Department of Health and Human Services and applies to those 60 years of age and older. Title III authorizes funding for senior centers to be operated by nonprofit organizations cities or counties. Title VII authorizes long-term care ombudsman and the prevention of elder abuse, neglect and exploitation programs. A 1973 amendment required States to designate local service planning areas. A 2012 amendment identified the Administration for Community Living (ACL) as the principal agency in the Department of Health and Human Services (HHS) to lead aging and disability programs under its Administration on Aging. A 2016 reauthorization strengthened the Long-Term Care (LTC) Ombudsman Program providing direction on elder abuse screening and prevention efforts and authorizing them to serve **all** LTC facility residents, regardless of age. (Sources: 1) <https://acl.gov/about-acl/authorizing-statutes/older-americans-act>; 2) <https://acl.gov/sites/default/files/about-acl/2017-04/OAA-Summary-Final.pdf>)
- Social Security Act Title XX created Social Services Block Grants (SSBG) in 1975. It provides funding to states for social services programs including Adult Protective Services. Each state determines how to allocate their SSBG dollars and have developed their own APS programs governed by State law. Thus there is no one definition for elder abuse and neglect or associated procedures or processes across states. (Source: http://eldermistreatment.usc.edu/wp-content/uploads/2018/05/Understanding-and-Working-with-APS_May2018.pdf)
- The Elder Justice Act was signed into law in 2010. It is the first comprehensive federal legislation to address the abuse, neglect, and exploitation of older adults (60 years and older) at the federal level. It authorized a variety of programs and initiatives to better coordinate federal responses to elder abuse, promote elder justice research and innovation, support Adult Protective Services (APS) systems, and provide additional protections for residents of long-term care facilities. As a grantee under the act, California is implementing an APS Leaders Institute to increase the capacity of APS managers to coordinate, plan, and implement APS system improvements. (Sources: 1) https://www.ssa.gov/OP_Home/ssact/title20/2000.htm; 2) <https://acl.gov/about-acl/elder-justice-act>)
- The Elder Abuse Prevention and Prosecution Act of 2017 establishes requirements for the Department of Justice (DOJ) with respect to investigating and prosecuting elder (60 years and older) abuse crimes and enforcing elder abuse laws. The law designates Elder Justice Coordinators in federal judicial districts, Federal Bureau of Investigation (FBI) agents training, establishes a

work group, improves data collection, expands the definition of telemarketing and email marketing, and provides information, training, and technical assistance to states and local elder crime investigation, prosecution, prevention, and exploitation. (Source: <https://www.congress.gov/bill/115th-congress/senate-bill/178>)

California laws, regulations and governmental agencies/departments support implementation and adherence to federal elder laws mandates.

- AB 166 passed in 1966 established the California Commission on Aging (CCoA) to implement the OAA following its passage. A history of elder legislation can be found on the Commissions website. (Source: <https://www.ccoa.ca.gov/AboutCCoA/HistoryofCCoA>)
- The Burton Act of 1973 created the Office on Aging (known today as the California Department of Aging [CDA]) in the Department of Health and Human Services assigning OAA administration responsibilities to it. The role of the CCoA was moved to one of an advisory capacity to the governor, legislature and Office on Aging. (Source: <https://www.ccoa.ca.gov/AboutCCoA/HistoryofCCoA>)
- The Older Californians Act (OCA) of 1980 designated local Area Agencies on Aging (AAA) as local advocacy agencies and further defined the role of the CDA. Annually, the CDA develops and submits a State Plan to Washington. The 2017-2021 State Plan includes a diagram of the California Aging Network. (See Appendix C.) (Source: https://www.aging.ca.gov/Resources/California_State_Plan_on_Aging_2017-2021)
- The Mello-Granlund Older Californians Act passed in 1996, moved administration of portions of this act and parts of Medi-Cal from the Department of Aging to local AAAs. Codified under Welfare & Institutions Code (WIC) 9000-9750, it speaks to the complexity and lack of coordination among agencies serving elders, requiring enhanced coordination to reduce duplication, eliminate inefficiencies, and enhance service delivery for the consumer. It provides for the protection of older individuals from physical and mental abuse, neglect, and fraud. It created the The California Senior Legislature (CSL) as a volunteer organization comprised of 40 senior senators and 80 senior assembly members. The CSL's mission is to gather ideas for state and federal legislation and to present those as proposals to members of the legislature. (Source: http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=WIC&division=8.5.&title=&part=&chapter=&article=)
 - *Area Agencies on Aging (AAA)* are tasked with implementing the OAA at the local level. Currently there are 33 AAAs in California who report to the CDA. The local Fresno-Madera AAA (FMAAA) functions under the joint powers of Fresno County, Madera County, and the City of Fresno.

The major function of the AAA is to assist communities to plan, develop and implement comprehensive and coordinated systems of services for the elderly. AAAs conduct needs assessments; develop area plans for state approval; contract with local agencies to provide specific services; and work with other community providers to promote awareness of elderly concerns and secure other funding to support local efforts.

(Source: <https://oig.hhs.gov/oei/reports/oai-03-87-00021.pdf>)

- *The Long-Term Care Ombudsman Program* is under the California Department of Aging and provides support to elders in facilities licensed by the Department of Public Health or the Department of Social Services by identifying, investigating, and resolving complaints (including those of abuse) made by, or on behalf of, residents in their licensed nursing homes, residential care facilities for the elderly, and assisted living facilities. Most Ombudsman services are provided by volunteers who become certified after 36 hours of training and additional internship hours and maintain it with 12 hours of annual training. There are 35 LTC Ombudsman Programs in California. (Sources: 1) <https://www.aging.ca.gov/ProgramsProviders/LTCOP>; 2) *The California Long-Term Care Ombudsman Program Designation Standards for Approved Organizations*, California Department of Aging, Program Memo 08-29(P), December 30, 2008, [https://www.aging.ca.gov/PM/PM08-29\(P\)/PM_08-29_ombi_Designation_Standards.pdf](https://www.aging.ca.gov/PM/PM08-29(P)/PM_08-29_ombi_Designation_Standards.pdf))
- *Adult Protective Services* was created following the passage of Title XX of the Social Security Act. Initially services were limited and regulations minimal. In 1998, SB 2199 and related Welfare and Institution Code 1570 established a statewide APS program with minimum standards. In 2011, under “realignment,” program and fiscal responsibility for several services including child welfare and adult protective were shifted to the counties. (Sources: 1) <http://www.cdss.ca.gov/inforesources/Adult-Protective-Services>; 2) <http://www.cdss.ca.gov/Portals/9/Budgets/APS%20Overview%202.12.19.pdf?ver=2019-03-12-111848-977>; 3) https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=WIC&division=9.&title=&part=3.&chapter=13.&article=)
- SB 1018 passed in 2005 and codified under WIC 15630.1, it requires financial institutions to report suspected financial abuse to law enforcement and to provide their employees with elder financial abuse mandated reporter training. (Source: https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC§ionNum=15630.1)
- AB1136 is pending legislation. If passed would create the California Department of Community Living (CDCL) within the California Health and Human Services Agency (CHHSA). Reorganizing and renaming the California Department of Aging (CDA) and assigning to it overarching aging services leadership would reduce the fragmentation and duplication created with

splintered administration under multiple elder programs in multiple departments.
(Source: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1136)

California Codes

The California Courts and Judicial Branch, Elder Abuse Court in their “Elder Abuse Pocket Reference” provides a compiled list of Elder laws as follows. (Source: <https://www.courts.ca.gov/5981.htm>)

- Crimes Against Elders, Dependent Adults and Persons with Disabilities (Penal Code 368 and other Penal Code Sections)
- Elder Abuse and Dependent Adult Civil Protection Act (Welfare & Institutions Code 15600-15675); Code of Civil Procedure (527.9)
- Adult Protective Services (Welfare & Institutions Code 15750-15766)
- Protective Placements and Custody of Endangered Adults (Welfare & Institutions Code 15700-15705.40)
- Long-Term Care Ombudsman (Welfare & Institutions Code 9700-974)
- Financial Abuse of Elders (Codes: Penal; Welfare & Institutions; Business & Professions; Civil; Family; Government; and Insurance Codes)
- Judicial System Supports for Elderly Victims/Witnesses (Penal Code)
- Conservatorships and Related Probate Code Sections (Probate Code)
- Civil Harassment Restraining Order (Code of Civil Procedure 527.6)
- Family Code Protective Orders (Family Code 6200-6409)

Penal Codes

The intent in adopting legislation that specifically protect elders (ages 65+) and dependent adults (ages 19 through 64) is stated in the following:

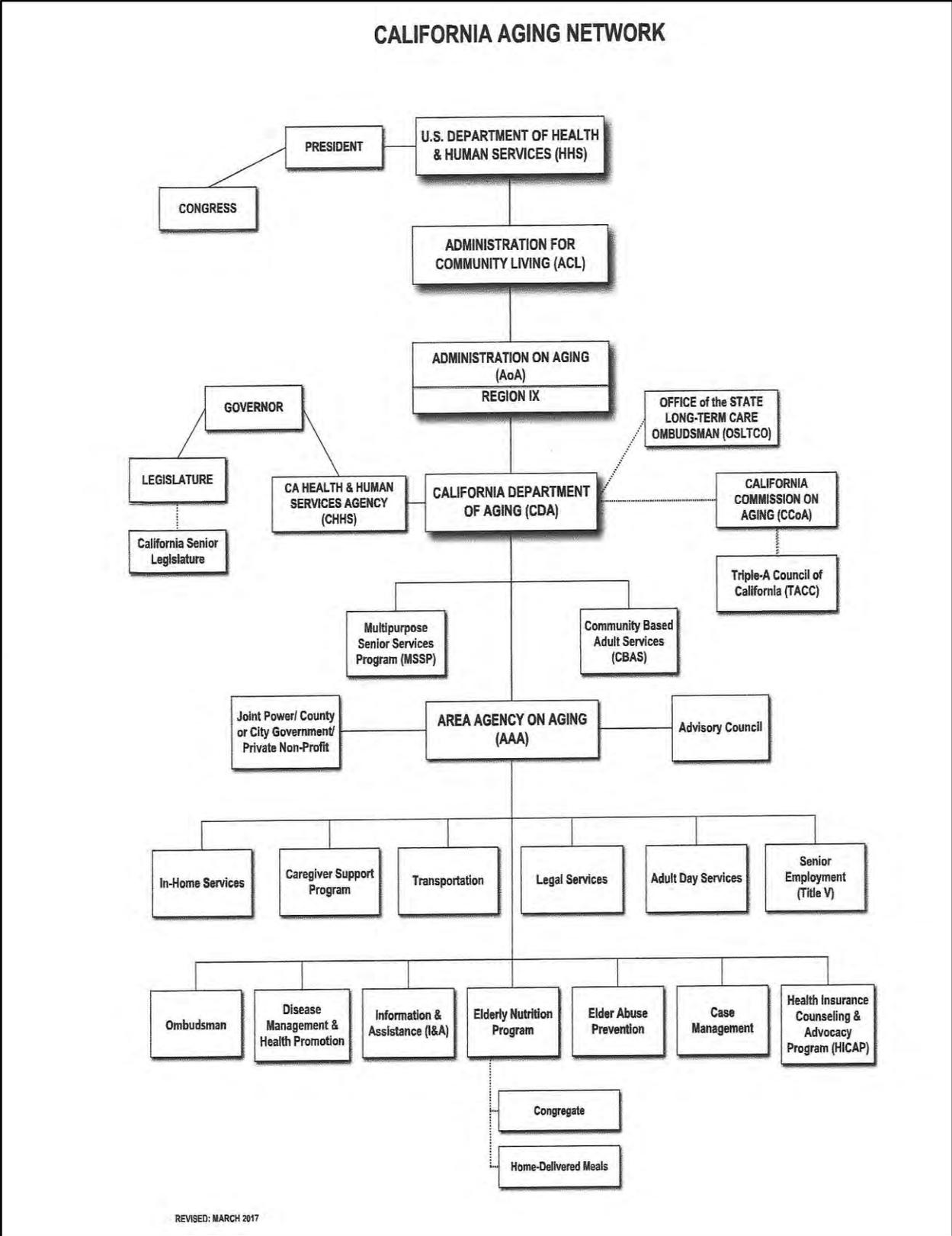
- Penal Code Section 368(a) declares that elders and dependent adults are deserving of special consideration and protection.
- Penal Code Section 368(b) applies to circumstances “likely to produce great bodily harm or death” and can result in a felony conviction.
- Penal Code Section 368(c) applies to any person who knows or reasonably should know that a person is an elder or dependent adult and 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 to suffer, or inflicts thereon unjustifiable physical pain or mental suffering . . . is guilty of a misdemeanor.
- Penal Code Section 368.5 authorizes local law enforcement agencies have jurisdiction to investigate elder and dependent adult abuse, together with local adult protective agencies and local long-term care programs. Law enforcement agencies, however, retain exclusive responsibility for criminal investigations.

(Source:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=368.&highlight=true&keyword=elder

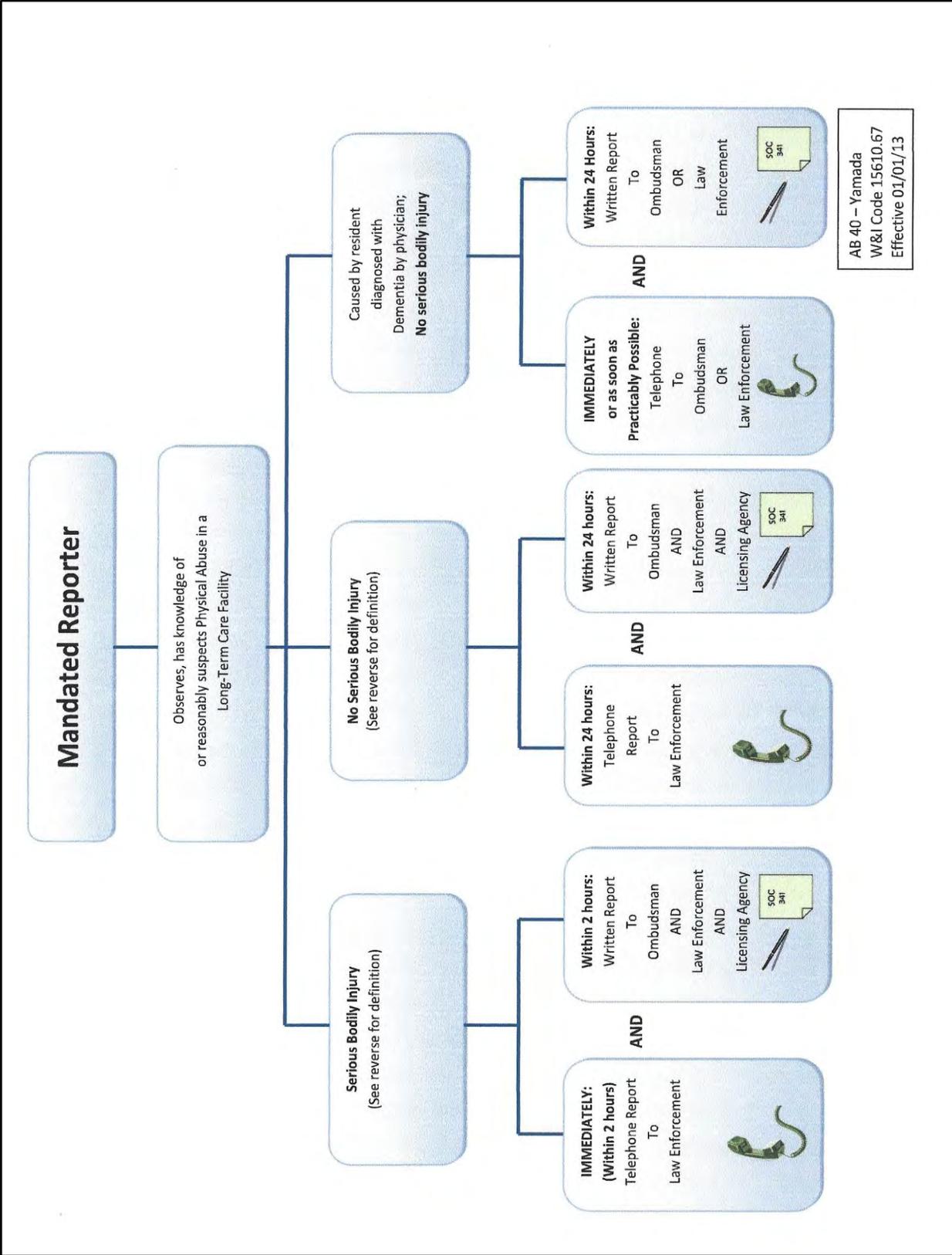
- AB 2623 peace officers standards and training was passed in 2014 and is codified under Section 13515 of the Penal Code. Under the amendment field and investigative police officers or deputy sheriffs are required to complete elder and dependent adult abuse training within 18 months of assignment to field duties. Training is required to include: Relevant laws; signs of physical, emotional abuse, neglect, and fraud; reporting requirements/procedures; role of adult protective services and public guardian offices; protective and restraining orders. (Source: http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=13515.&article=2.&highlight=true&keyword=elder)

California Aging Network¹



¹ California State Plan on Aging – 2017-2021, California Department of Aging, https://www.aging.ca.gov/docs/Highlights/CSP_Plan_Aging/California%20State%20Plan%20on%20Aging%202017-2021.pdf

Ombudsman Mandated Reporter Protocol¹



AB 40 – Yamada
W&I Code 15610.67
Effective 01/01/13

¹ Mandated Reporter Flow Chart, California Department of Justice, Office of Attorney General, <https://oag.ca.gov/sites/all/files/agweb/pdfs/bmfea/mandate-reporter-flow-chart.pdf>.

General Information (AB 40)

1. Welfare & Institution Code §15610.67 definition of "serious bodily injury": an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation.
All other bodily injuries would be considered, "no serious bodily injury".
2. Written Report: SOC341 (cross-reporting); CDA223 (referral).
3. If other than Physical Abuse, no change in law. Report by telephone and written report to either Ombudsman or Local Law Enforcement immediately or as soon as practicably possible. Report in writing within two working days.
4. Law Enforcement may coordinate efforts with Ombudsman to provide the most immediate and appropriate response warranted.
5. Physical abuse that must be reported to law enforcement includes: assault, battery, sexual assault, unreasonable physical constraint, improper use of a physical or chemical restraint or psychotropic drugs; see Welfare & Institution Code §15610.63
6. The term "Ombudsman" refers to local Ombudsman Program. The term "Law Enforcement" refers to local law enforcement.
7. Exceptions to Long-Term Care facilities: State Mental Hospital or State Developmental Center. (Refer to SB1051).

Elder Justice Act (EJA) (Skilled Nursing Facilities – Federal Law)

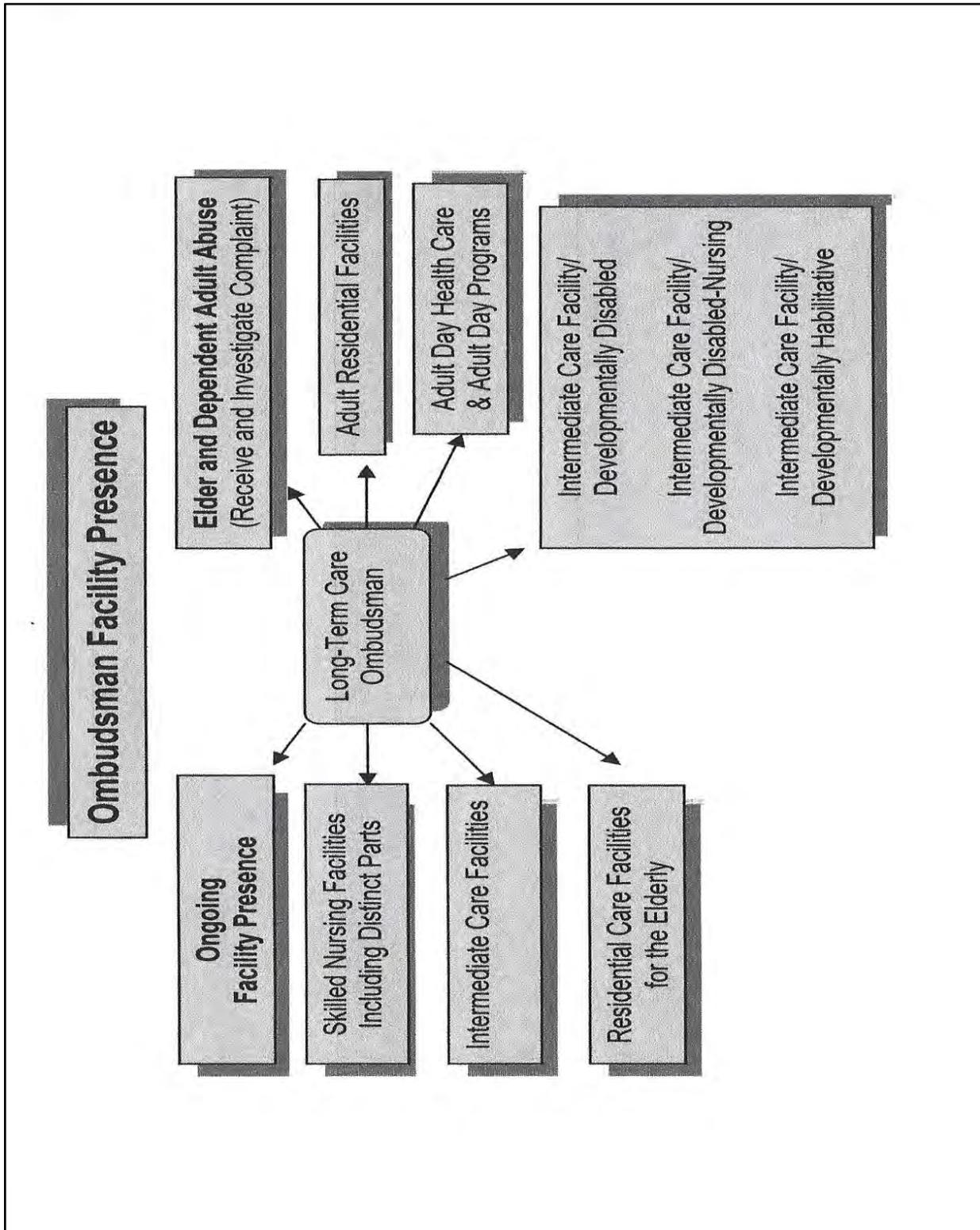
All instances of suspected criminal conduct occurring in long-term care facilities (skilled nursing facilities) must be reported, by the facility, to local law enforcement agencies, via the SOC341. The EJA now requires all reports of "suspected crimes committed against a resident of the facility to be submitted to at least one local law enforcement agency or jurisdiction, and the Department of Public Health, Licensing and Certification Program."

The EJA establishes two time-limits for the reporting of reasonable suspicion of a crime, depending on the seriousness of the event: "Events that result in serious bodily injury shall be reported immediately, but no later than 2 (two) hours after forming the suspicion, and all other reports within 24-hours."

Local law enforcement must immediately refer the complaint of abuse to the Bureau of MediCal Fraud and Elder Abuse (BMFEA) and to the local Ombudsman, regardless of the local law enforcement's decision to investigate or close the matter. Welfare & Institution Code §15630 requires local law enforcement to cross-report all instances of criminal activity that occur in a long-term care facility to the BMFEA.

NOTE: This training tool is not intended to cover all reporting requirements for skilled nursing and residential care facilities. Reporters should refer to their respective licensing laws to assure all reporting requirements have been met.

LTC Ombudsman Facility Presence¹



¹ California Department of Aging, Office of the State Long-Term Care Ombudsman, *Long Term Ombudsman Program, Equipping California Long-Term Care Ombudsman Representatives for Effective Advocacy: A Basic Curriculum, California's Long Term Care Setting*, August 2007, [https://ltcombudsman.org/uploads/files/support/Chapter_3_Californias_LTC_Setting\(1\).pdf](https://ltcombudsman.org/uploads/files/support/Chapter_3_Californias_LTC_Setting(1).pdf).