



THE COUNTY
OF FRESNO

GRAND JURY
REPORT

2018~19



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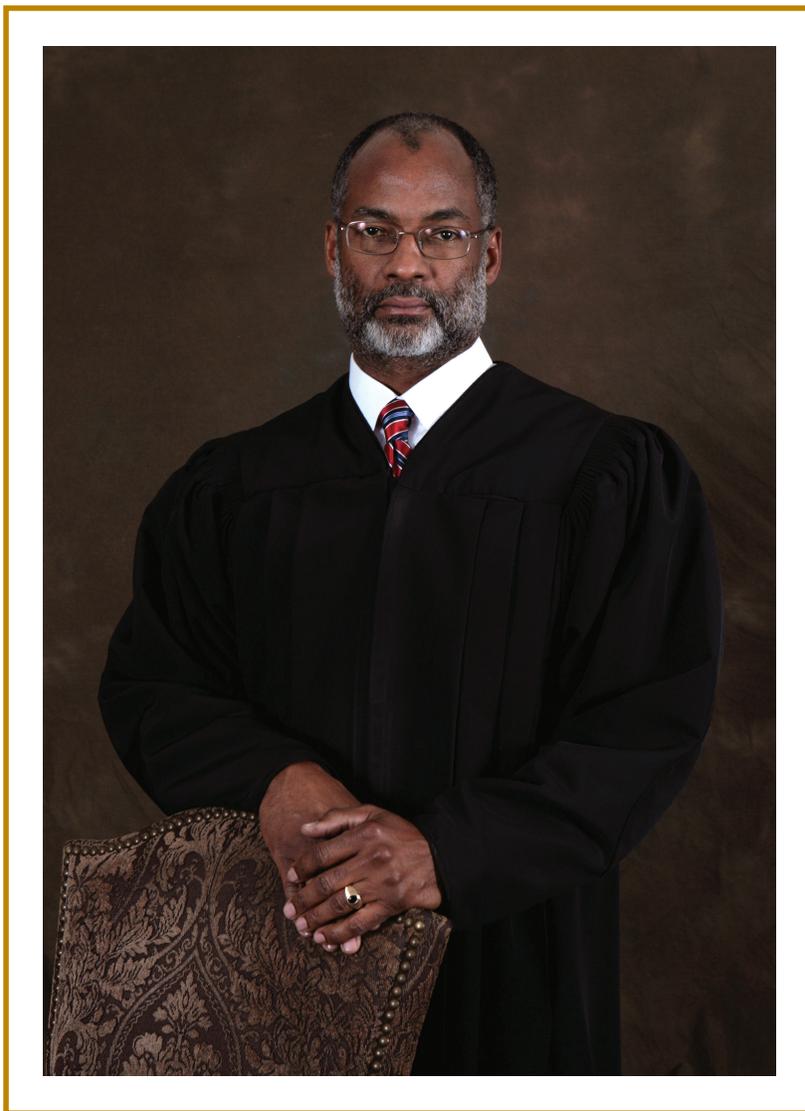
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PRESIDING JUDGE OF THE FRESNO COUNTY SUPERIOR COURT
HON. ALAN M. SIMPSON



THE COUNTY
OF FRESNO
GRAND JURY
REPORT

PRESIDING JUDGE
2018~19



HON.
ALAN M. SIMPSON



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Superior Court of California County of Fresno

CHAMBERS OF
ALAN M. SIMPSON
Presiding Judge 2018-2019

1100 VAN NESS AVENUE
FRESNO, CALIFORNIA 93724-0002
(559) 457-2010

As with each previous Grand Jury, the 2018-2019 Fresno County Grand Jury served with distinction. This Grand Jury made an important contribution to local government, and the Fresno County Superior Court appreciates and values its service.

The 2018-2019 Grand Jury continued in the fine tradition of its predecessors by diligently acting as the public's watchdog through its investigations of and reporting on particular affairs of local government. This Grand Jury issued three reports. The first addressed Elder Abuse, the second addressed First 5 of Fresno County, and the third addressed the Fresno Police Department 911 Communication Center. Each report was thorough and detailed and contained appropriate recommendations for potential improvements for the agencies identified. The leadership of foreperson, William Smith, and foreperson pro tem, Timothy Wilkins, must be noted and appreciated. They carried out their responsibilities to ensure that the Grand Jury as a whole, and each of the committees, functioned effectively and efficiently. The forepersons, along with all members, are commended for their service

All citizens residing in Fresno County are invited and encouraged to apply for a position as a grand juror and to continue this important function of public service.

A handwritten signature in blue ink, appearing to read "Alan M. Simpson".

**Hon. Alan M. Simpson
Presiding Judge 2018-2019**



County of Fresno

Grand Jury

TO: Honorable Alan M. Simpson, Presiding Judge for 2018-19
Residents of Fresno County

The Fresno County Grand Jury is a California state-mandated judicial body charged with investigating civil matters only. The Grand Jury's responsibilities include investigating issues regarding county government and agencies funded by the local government. Every county in the State of California has a civil Grand Jury, each required by law to respond to public complaints, as well as investigate the management and condition of public detention facilities within the county. The Grand Jury can also issue report and recommendations when appropriate.

The journey of 2018-19 Fresno County Grand Jury began with our selection and empanelment on Wednesday June 27, 2018. This year's jury was made up of nine holdover jurors from the 2017-2018 Grand Jury, as well as ten newly selected members. We did lose a very few members during the early months of our jury, but the appointed alternate jurors quickly fit into the group. For the majority of our term we consisted of 13 men and 6 women. During our journey we listened to many city and county officials speak, toured a number of facilities within Fresno County and investigated issues brought to our attention through complaints by citizens.

The process of nineteen individuals working together requires a few things to happen for success. Patience, cooperation, respect, and the ability to listen to opinions you may not agree with are only a few of the key issues required for a group to be successful. The 2018-19 Grand Jury was able to achieve success by overcoming all obstacles placed in our way and working as a unified team. While many could argue that it is practically impossible for nineteen people to agree on anything, our Grand Jury made it happen by focusing on the key issues. Within our conference room we may have disagreed and done some arguing, but outside the room we were a united group with a singular goal.

When I assumed the role of Foreman in October of 2018, I did so with some anxiety and trepidation. Would I be able to attain the group's respect? Could I run the jury and make it successful? Would I be able to guide the nineteen jurors to find the middle ground during times of argument and disagreement? I discovered that I was able to find success not so much by what I did, but what all our members did. The entire Grand Jury had a focus to see our group succeed, and it did! We arrived as total strangers, but we leave as nineteen friends. I would like to issue a heartfelt "Thank you" to all members of the 2018-19 Grand jury for their patience, hard work and service to the County of Fresno.

Respectively,

William Smith
2018-19 Fresno County Grand Jury Foreman



THE COUNTY OF FRESNO

GRAND JURY REPORT

2018~19



MISSION STATEMENT

The Fresno County Grand Jury serves as the ombudsman for citizens of Fresno County. The primary function of the Grand Jury, and the most important reason for its existence, is the examination of all aspects of county government and special districts assuring honest, efficient government in the best interests of the people.

Their responsibilities include receiving and investigating complaints regarding county government and issuing reports. A Grand Jury Final Report is issued each year. Grand Jurors generally serve for one year although the law provides for holdovers for a second year to assure a smooth transition.

NAME OF EACH GRAND JURY MEMBER FOR 2018-2019

GEORGE BAGETAKOS
MICHAEL BLACK
MARC BOSWELL
STEVEN FORTNER
JOHN HILL
BARBARA KIRBY
KERRI LADD
TOM LARSON
PATRICIA MILLER
JAMES MISER
WILLIAM REGONINI
LISA RODRIGUEZ
KELVIN SCOTT
RAY SELICK
WILLIAM SMITH
ROGER SNYDER
BARBARA SWAN
MARY TORRES
TIM WILKINS

THE COUNTY OF FRESNO
2018-2019 GRAND JURY



LEFT SIDE (Left to Right):

Roger Snyder • William Regonini • Tim Wilkins (*Pro Tem*) • John Hill • Patricia Miller • Michael Black
Kerri Ladd • Barbara Swan and William Smith (*Foreman*)

RIGHT SIDE (Right to Left):

James Miser • Tom Larson • George Bagetakos • Barbara Kirby • Ray Sellick • Mary Torres
Steven Fortner • Lisa Rodriguez and Kelvin Scott

NOT PICTURED:

Marc Boswell

THE GRAND JURY PROCESS

❖ APPLICATION INFORMATION

❖ FUNCTIONS

❖ COMPLAINT PROCEDURE



APPLICATION INFORMATION

The Fresno County Grand Jury serves as the civil watchdog for the County of Fresno. Their responsibilities include investigating complaints regarding county and city governmental agencies and issuing reports when necessary.

In the early months of each calendar year, the Fresno County Superior Court begins the process for selecting a new grand jury. Those with an interest in serving on the grand jury may contact the Juror Services Manager and ask to be considered as a prospective grand juror. In addition to self referrals, names of prospective grand jurors are suggested by the active and retired judicial officers of the Fresno County Superior Court and the current grand jury members.

The basic qualifications include being a citizen of the United States, being at least 18 years of age and a resident of Fresno County for at least one year prior to selection. Applicants should also be in possession of their natural faculties and have ordinary intelligence, sound judgment and good character. They should be able to speak and write English and have some computer literacy.

Questionnaires are mailed to all prospective grand jurors after the nominations are received. All prospective grand jurors are required to have a background check. All prospective grand jurors must be officially nominated by a sitting Superior Court Judge and may be asked to come in for an interview. The Judges then consider all prospective grand juror nominees. They nominate 30 prospective jurors, who are invited to an impanelment ceremony in mid-June. Names are drawn at random to serve on the nineteen member grand jury. Generally, there are two to four members from the outgoing grand jury who holdover to insure a smooth transition.

Prospective grand jurors should be aware of the responsibilities and time commitment involved. Jurors typically spend a minimum of 40 hours per month on meetings, interviewing, conducting investigations and writing reports. The service period from July 1 to June 30 of the following year.

For additional information or to nominate yourself or someone else, contact the Juror Services Manager at the Fresno County Courthouse, 1100 Van Ness Avenue, Room 102, Fresno, CA 93724-0002 or call 559-457-1605.



FUNCTIONS

History: In 1635, the Massachusetts Bay Colony impaneled the first grand jury to consider cases of murder, robbery and wife beating. By the end of the colonial period the grand jury had become an indispensable adjunct to the government.

The U.S. Constitution's Fifth Amendment and the California Constitution call for the establishment of grand juries. The California Constitution provided for prosecution by either indictment or preliminary hearing.

In 1880, statues were passed which added duties of the grand jury to investigate county government beyond misconduct of public officials. Only California and Nevada mandate that civil grand juries be impaneled annually to function specifically as a "watchdog" over county government. California mandates formation of grand juries in every county able to examine all aspects of local government adding another level of protection for citizens.

Functions: The civil grand jury is a part of the judicial branch of government, an arm of the court. As an arm of the Superior Court, the Fresno County Grand Jury is impaneled every year to conduct civil investigations of county and city government and to hear evidence to decide whether to return an indictment.

The civil grand jury in its' role as civil "watchdog" for the County of Fresno has two distinct functions:

- ❖ Investigations of allegations of misconduct against public officials and determine whether to present formal accusations requesting their removal from office under three feasancess: nonfeasance, misfeasance and malfeasance.
- ❖ Civil Investigations and Reporting, the watchdog function, is the PRIMARY duty of a regular Civil Grand Jury. In addition to mandated state functions, the jury may select additional areas to study publishing its' findings and recommendations in a report at the end of the year.

Both the criminal and civil grand juries have the powers to subpoena. The criminal grand jury conducts hearings to determine whether there is sufficient evidence to bring indictment charging a person with a public offense. However, the district attorney usually calls for empanelment of a separate jury drawn from the petit (regular trial) jury pool to bring criminal charges. However, in Fresno County a Superior Court Judge is the determiner of facts relative to holding an individual to answer criminal charges.

Civil Watchdog Functions: Considerable time and energy is put into this primary function of the civil grand jury acting as a the public's "watchdog" by investigating and reporting upon the operation, management, and fiscal affairs of local government (eg Penal Code § 919, 925 et seq.) The civil grand jury may examine all aspects of county and city government and agencies/districts to ensure that the best interests of the citizens of Fresno County are being served. The civil grand jury may review and evaluate procedures, methods and systems used by county and city government to determine whether more



FUNCTIONS

efficient and economical programs may be used. The civil grand jury is also mandated to inspect any state prisons located within the county including the conditions of jails and detention facilities.

Citizen Complaints: The civil grand jury receives many letters from citizens and prisoners alleging mistreatment by officials, suspicions of misconduct or government inefficiencies. Complaints are acknowledged and investigated for their validity. These complaints are kept confidential.

Criminal Investigations: A criminal jury is separate from a civil grand jury and is called for empanelment by the district attorney. A hearing is held to determine whether the evidence presented by the district attorney is sufficient to warrant an individual having to stand trial.

Note: This is not the procedure in Fresno County, a Superior Court Judge calls for a criminal jury if a matter continues on in the courts to trial.

The grand jury system as part of our judicial system is an excellent example of our democracy. The grand jury is independent body. Judges of the Superior Court, the district attorney, the county counsel, and the state attorney general may act as advisors but cannot attend jury deliberations nor control the actions of the civil grand jury (Penal Code § Code 934, 939).





FRESNO COUNTY CIVIL GRAND JURY

A major function of the Fresno County Civil Grand Jury is to examine Fresno County and city governments, special districts, school districts and any joint powers agency operating within the county to ensure their duties are being carried out lawfully. The Grand Jury does *not* investigate criminal, state, federal or court activities nor personal disputes.

The Grand Jury:

- ❖ May review and evaluate procedures used by these entities to determine whether more-efficient and economical methods can be employed.
- ❖ May inspect and audit the books, records, and financial expenditures of those entities to ensure that public funds are properly accounted for and legally used.
- ❖ May investigate any charges of willful misconduct in office by public officials.
- ❖ Shall inquire into the condition and management of state prisons within the county.

To request an investigation, the attached claim form must be filled out in its entirety, and submitted to the Grand Jury either electronically or by mail. All complaints received by the Grand Jury are confidential.

1. Name of complainant and contact information to include address, phone number and email. Anonymous complaints will *not* be investigated.
2. Complete nature of complaint to include name of person(s) or department(s) against which the claim is being filed.
3. Complaint form must be signed.
4. Written confirmation of complaint will be sent to complainant.

EMAIL FORM TO: info@fresnocountygrandjury.com
OR
MAIL FORM TO: Fresno County Civil Grand Jury
P.O. Box 2072
Fresno, CA 93718





Fresno County Civil Grand Jury Complaint Form

All Complaints Received by the Grand Jury are Confidential

Complaints will not be processed without a brief summary, contact information and a signature

Your Name: _____

Mailing Address: _____

City, State & Zip: _____

Preferred Phone Contact Number: _____

Email Address: _____

Brief Summary of Complaint Please include dates of events, names of officials involved, names of people who know about this, public agencies involved and any other pertinent information to help the Grand Jury assess the complaint. You may attach additional information as necessary.

The information contained in this complaint is true, accurate and complete to the best of my knowledge. Anonymous complaints will not be investigated.

Signature: _____ Date: _____

The Grand Jury is grateful for your participation. You will receive acknowledgment of your complaint after it has been reviewed by the Grand Jury. Because of statutory and confidentiality restrictions, the Grand Jury retains all complaints and attachments thereto in accordance with its policies and procedures. The Grand Jury does not discuss the status of complaints nor offer advice on how to pursue a complaint by any other investigatory body.

Email form to: info@fresnocograndjury.com
or
Mail form to: **Fresno County Civil Grand Jury**
P.O. Box 2072
Fresno, CA 93718

2018~19

THE FRESNO COUNTY GRAND JURY FINAL REPORTS AND RESPONSES

◆ REPORT #1

Elder Abuse and the “Silver Tsunami”

◆ REPORT #2

First Five Fresno County

◆ REPORT #3

9-1-1



REPORT & RESPONSES # 1

Elder Abuse and the “Silver Tsunami”



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

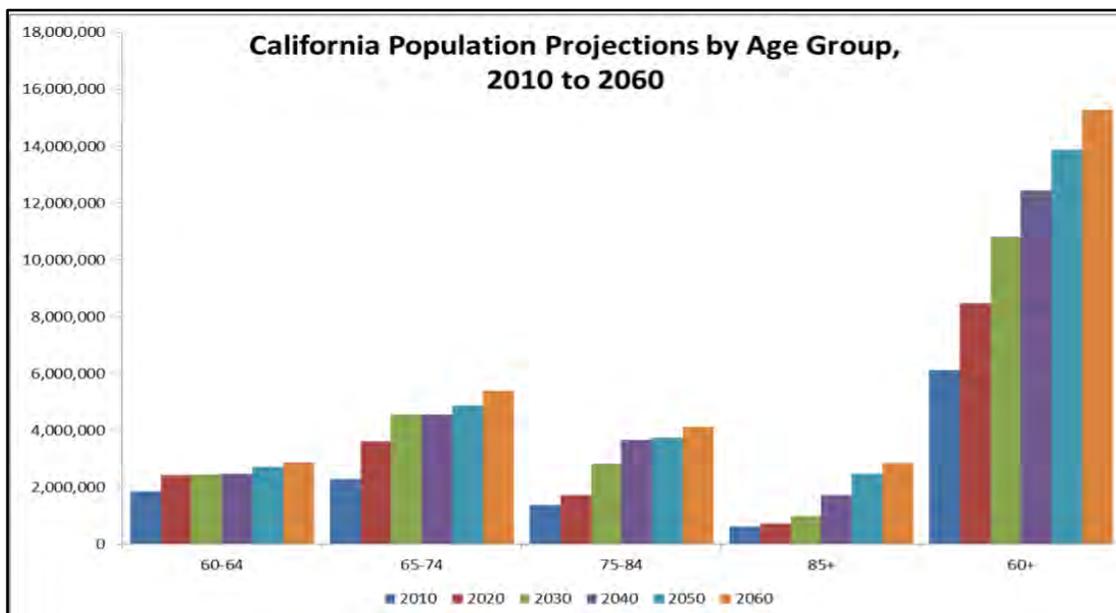
From 2016 to 2036, California's population is projected to grow at an annualized rate of 0.76 percent, adding 6.5 million people. During this 20 year span the population age 65 and older is projected to grow from 14 percent to 23 percent and will reach 26 percent growth in 2060. The San Francisco Bay 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.

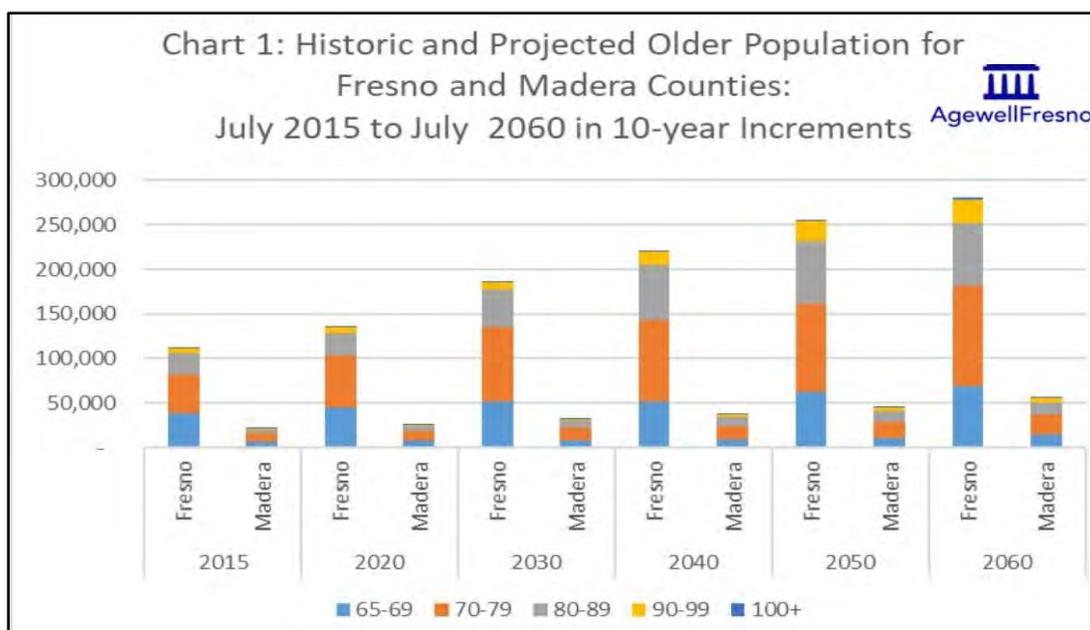
⁴ California Department of Aging, Percentage Increase of the Elderly Population: 2010 to 2060, https://www.aging.ca.gov/Data_and_Statistics/Facts_About_Elderly.

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>

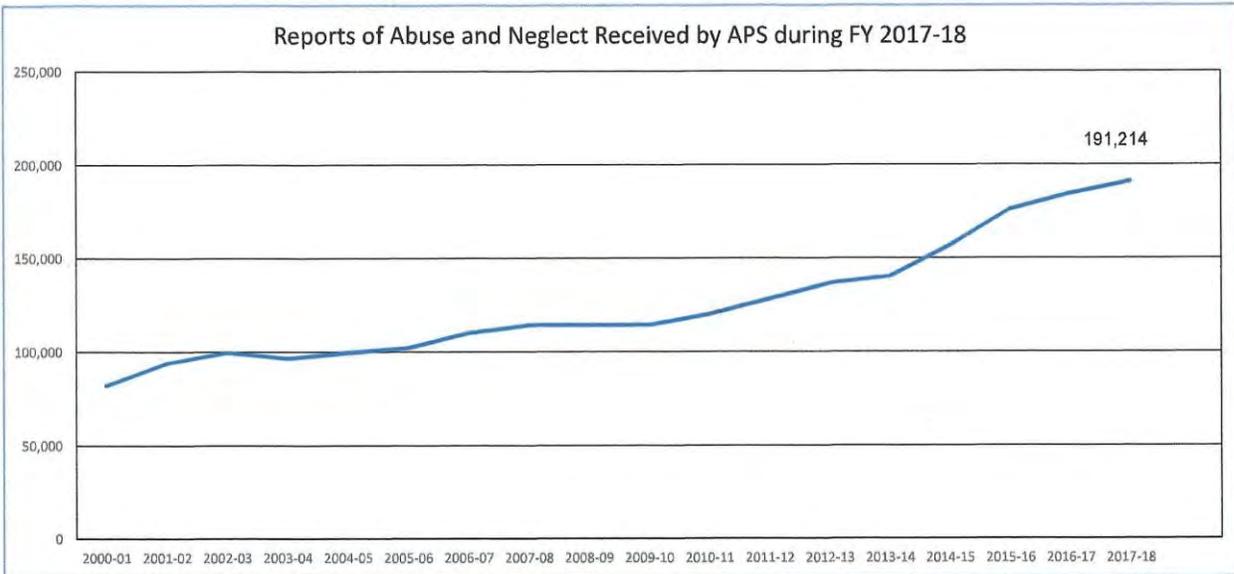
[/docs/DataAndStatistics/Statistics/IFF/2018%20Population%20Demographic%20Projections.pdf](https://www.aging.ca.gov/docs/DataAndStatistics/Statistics/IFF/2018%20Population%20Demographic%20Projections.pdf).

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

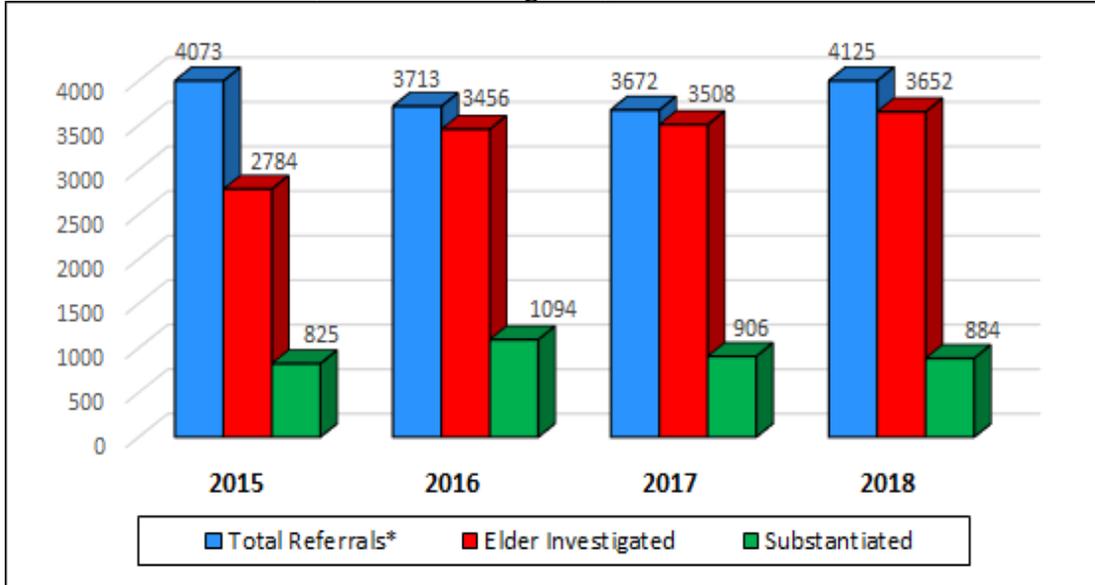
The charts that follow were developed using data provided by the Fresno County Department of Social Services (DSS) Adult Protective Services (DSS-APS).

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>.

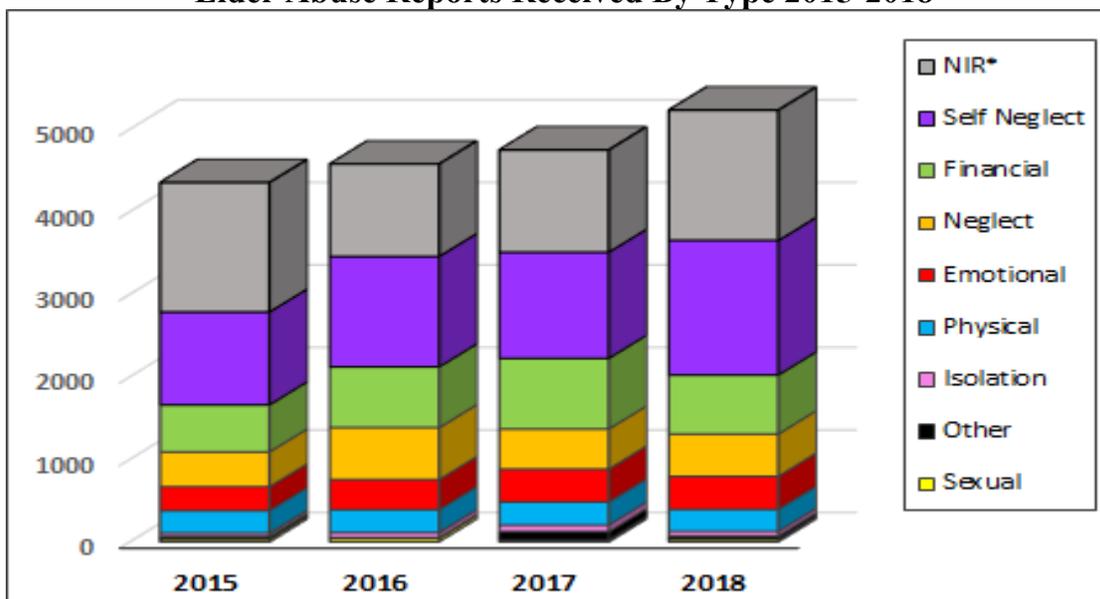
²⁸ *Adult Protective Services (APS) Program Overview*, California Department of Social Services Adult Programs Division, Assembly Budget Subcommittee #1, State Senate Budget Subcommittee #3, March 2019, <http://www.cdss.ca.gov/Portals/9/Budgets/APS%20Overview%202.12.19.pdf?ver=2019-03-12-111848-977>.

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 Ombudsman 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 proved 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

● Facilities increases from 225 to 270	● Beds increased from 8000 - 8300
● Paid staff increased from 2 to 4.25	● Volunteer staff increased from 20 to 30
● 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).

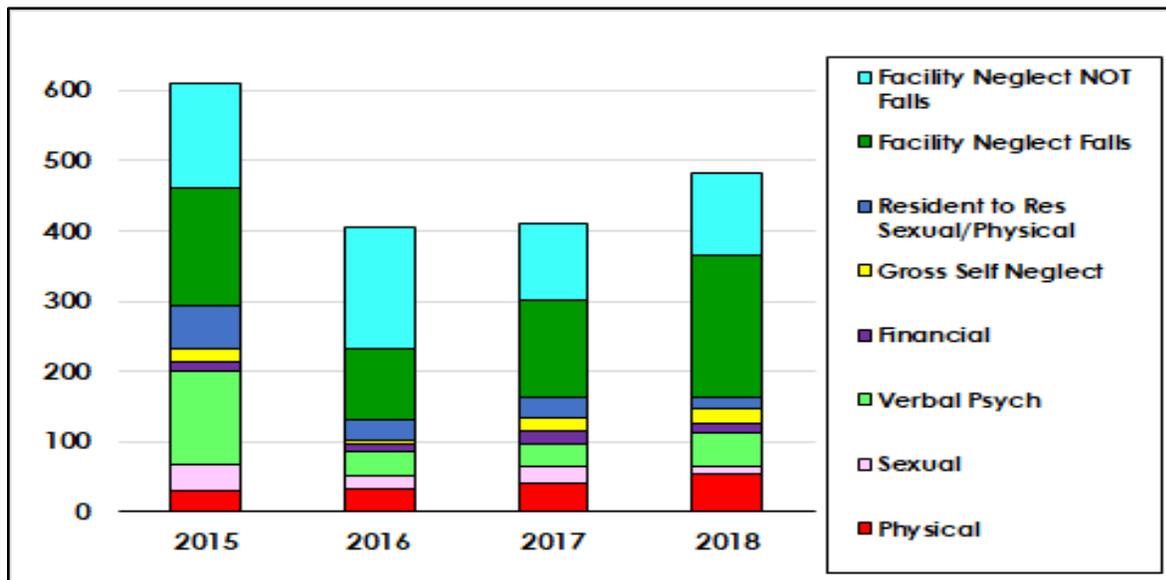
³⁷ U.S. Administration for Community Living, Long Term Care Ombudsman Program, <https://acl.gov/programs/protecting-rights-and-preventing-abuse/long-term-care-ombudsman-program>

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>.

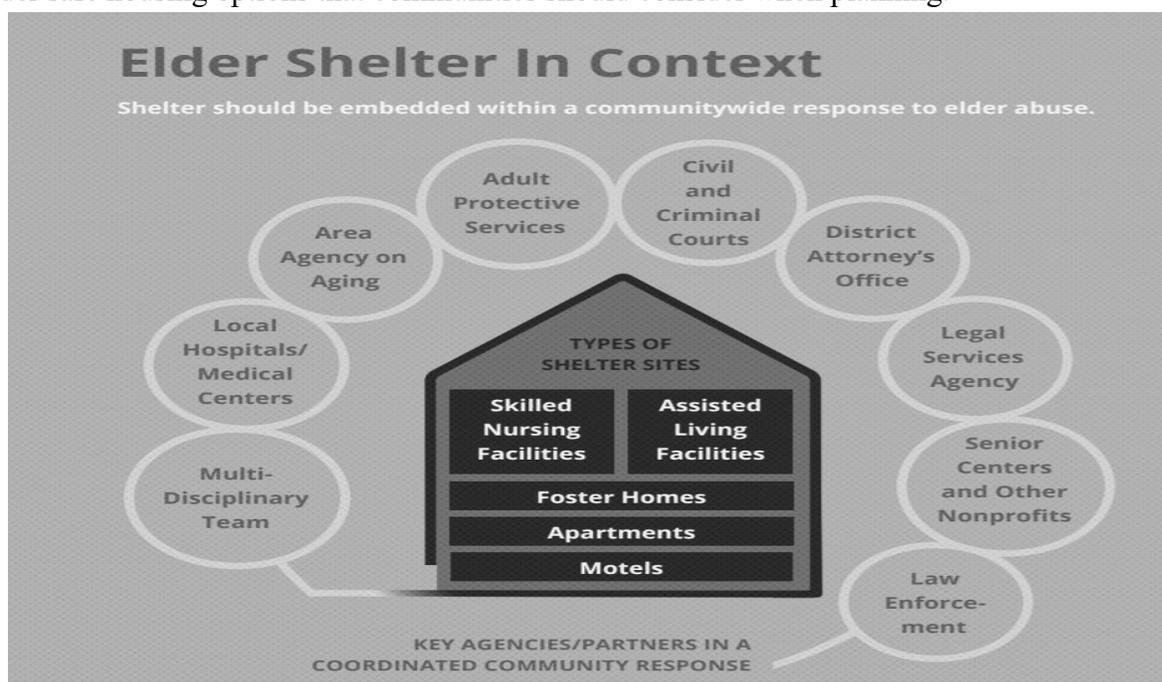
⁶¹ Santa Clara County, Office of the County Counsel, <https://www.sccgov.org/sites/cco/Pages/fast.aspx>.

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:

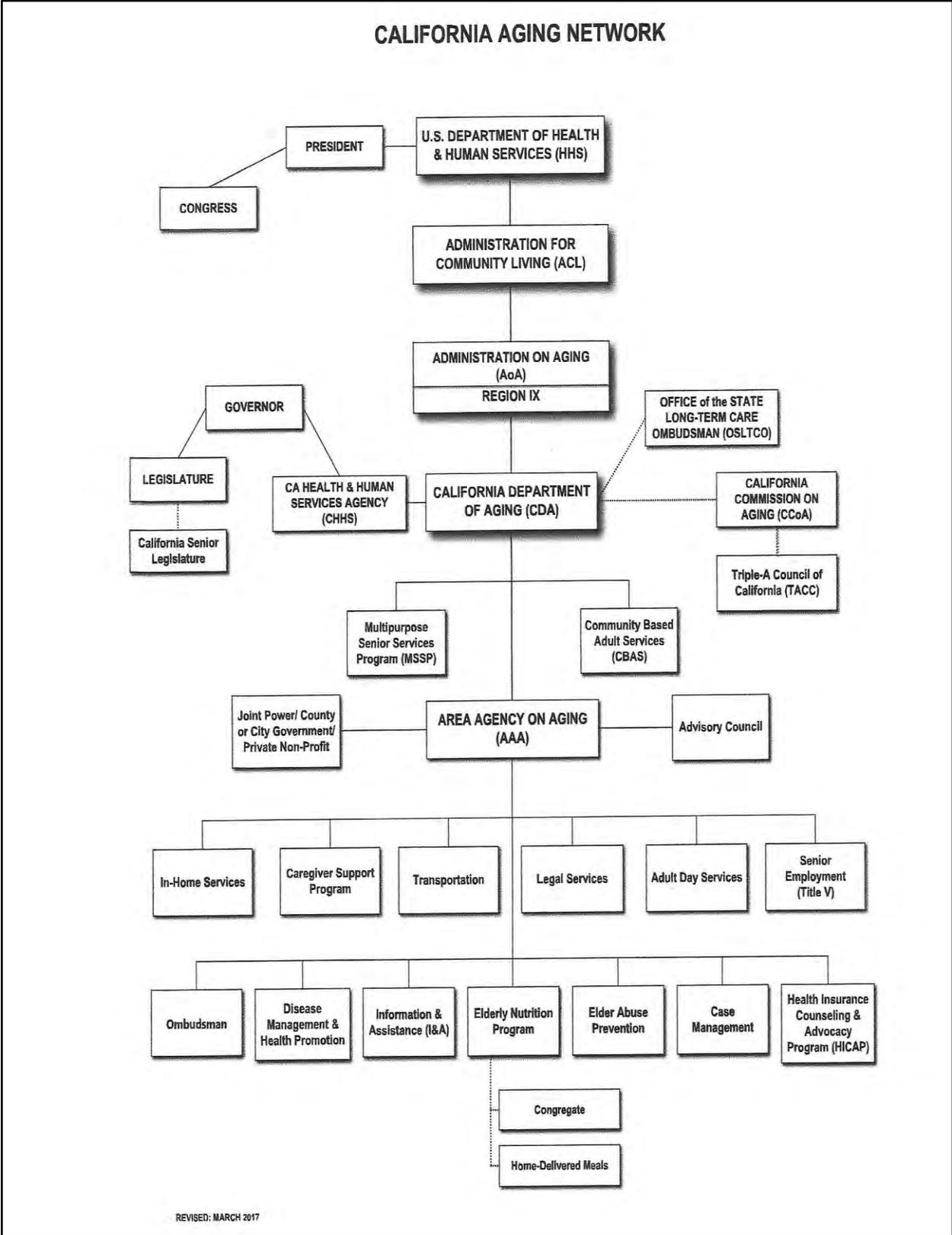
- Penal Code Section 368(a) declares that elders and dependent adults are deserving of special consideration and protection.
- Penal Code Section 368(b) applies to circumstances “likely to produce great bodily harm or death” and can result in a felony conviction.
- Penal Code Section 368(c) applies to 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

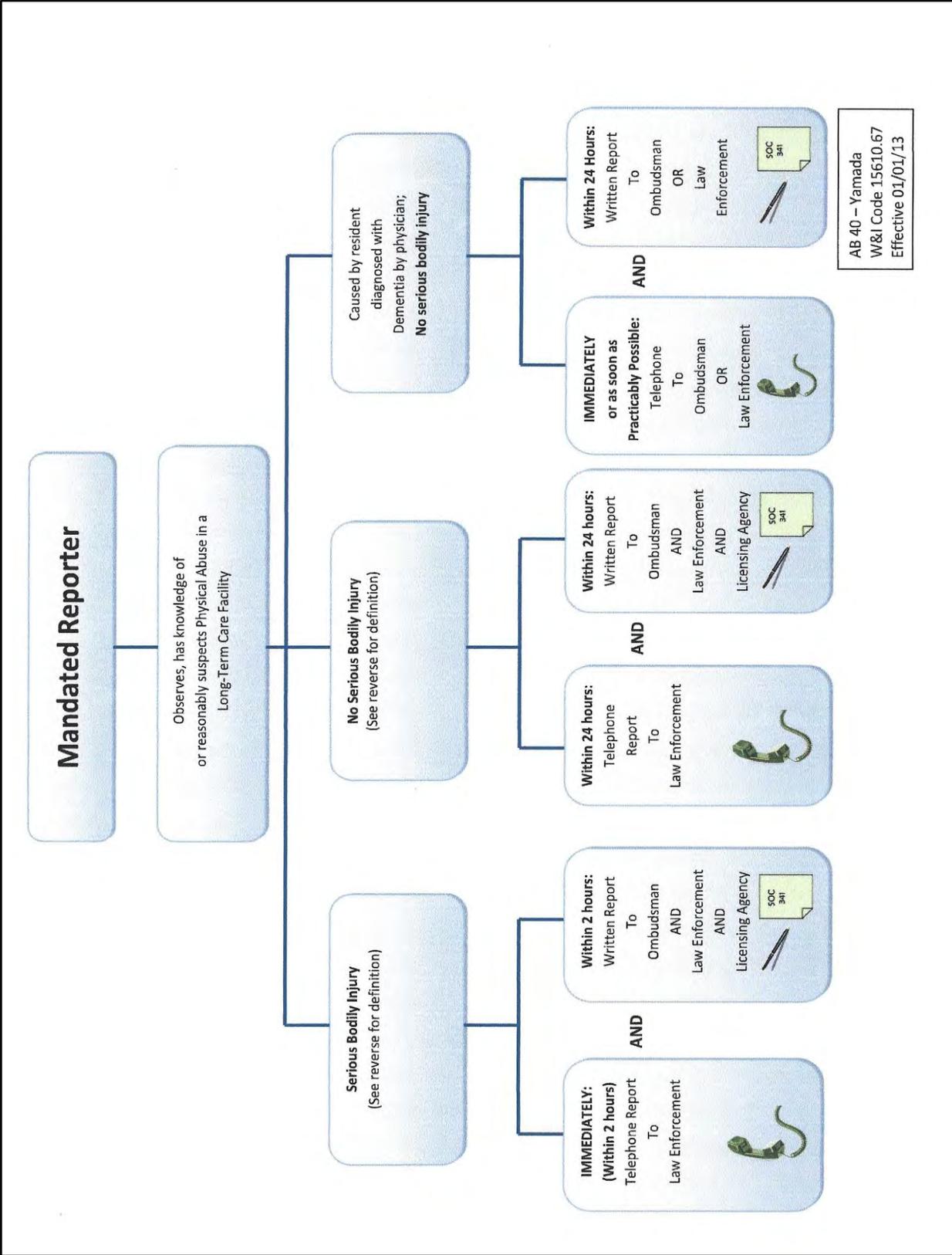
- AB 2623 peace officers standards and training was passed in 2014 and is codified under Section 13515 of the Penal Code. Under the amendment field and investigative police officers or deputy sheriffs are required to complete elder and dependent adult abuse training within 18 months of assignment to 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)

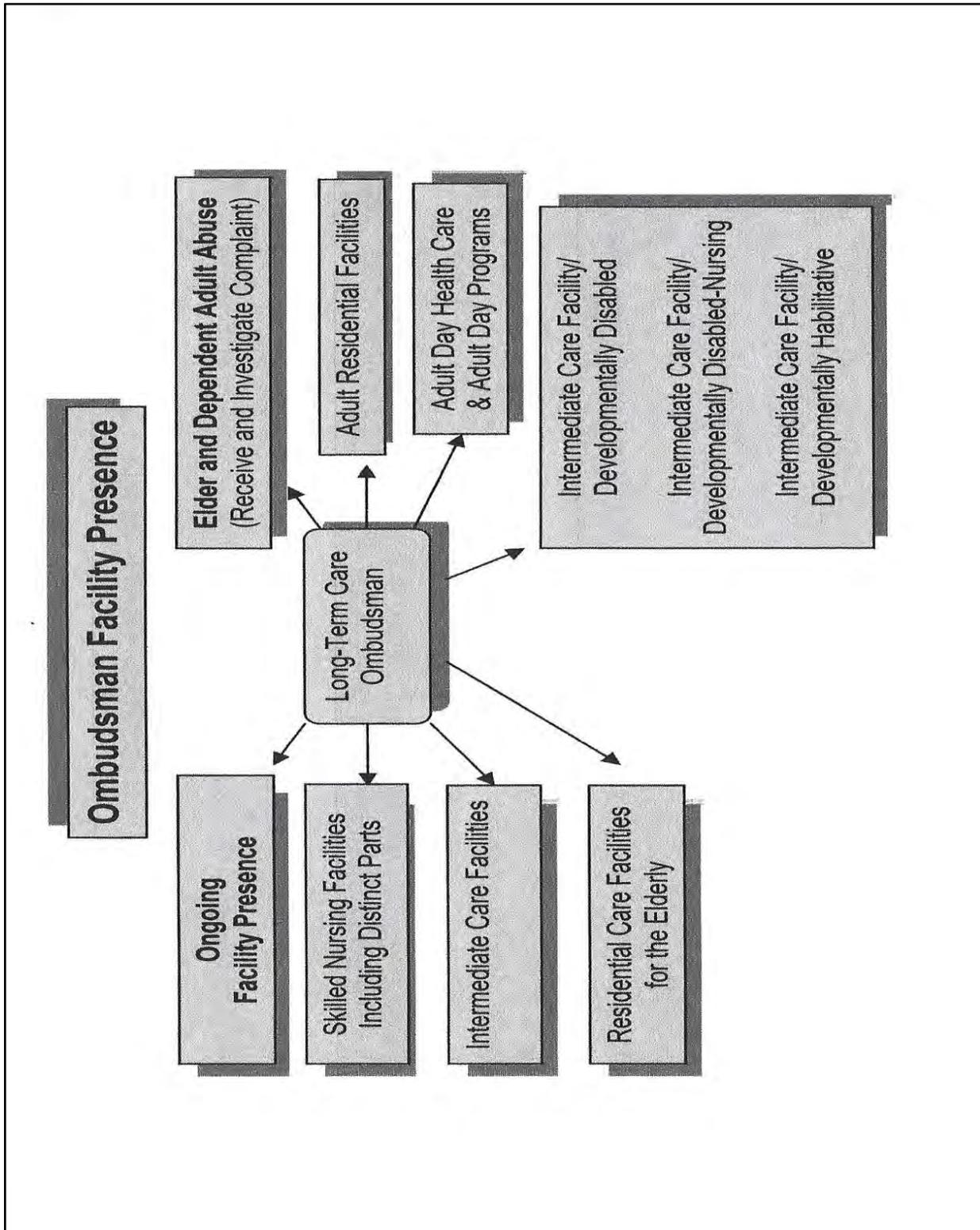
All instances of suspected criminal conduct occurring in long-term care facilities (skilled nursing facilities) must be reported, by the facility, to local law enforcement agencies, via the SOC341. The EJA now requires all reports of "suspected crimes committed against a resident of the facility to be 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).



COUNTY OF FRESNO

Lisa A. Smittcamp
District Attorney

September 3, 2019

The Honorable Alan M. Simpson, Presiding Judge
Fresno County Superior Court
Fresno California 93724-0002

Re: Fresno County Grand Jury Report No. 1, July 2019

Dear Judge Simpson:

The Grand Jury report reflects findings and recommendations regarding local public entities and their commitment of resources to address the crimes committed against our senior population in the present and the projected future wherein the senior population is expected to significantly increase. The length of the report denotes not only the extent of the complications when dealing with senior issues, but also, it substantiates the Grand Jury's thoroughness in framing the relevant issues. The District Attorney's Office would like to express its gratitude and thanks to the Grand Jury for their diligence, and as required by Penal Code Section 933.05, respectfully submits these responses to the findings and recommendations as set forth below:

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.*

Our office wholeheartedly agrees with the above finding. Elder and Dependent Adult Abuse cases require the assigned prosecutor to possess a multitude of skills and knowledge. The prosecutor assigned must be an expert in the area of complex fraud, physical abuse, domestic violence, sexual assault, homicide, and neglect. The prosecutor must possess a vast knowledge and understanding of medical nomenclature. The prosecutor must understand the dynamics between parties, the settings of abuse, issues of health and mortality, current and prior decisional capacity by the victims, dealing with a plethora of different types of evidence, understanding competency versus capacity issues, establishing motive and causation, how to deal with elderly victims and defendants, and the notion of ageism. On top of that, the prosecutor must be trauma-informed, taking care to minimize and not further re-traumatize the victim and recognize that the prosecution and court process by itself may very well trigger same. Of primary concern, the prosecutor must strive to always consider the elderly victim's ongoing safety and quality of life. The prosecutor must be able to work with law enforcement, social workers, ombudsman, medical

professionals, and challenging aging witnesses. Moreover, the prosecutor must be able to understand the distinction between civil and criminal matters particularly in the area where there are concerns of “undue influence.” The prosecutor must be aware of the finer nuances that undue influence is not actionable as a crime but can be considered to negate a defense of consent. Suffice it to say, the challenges presented to staff of the Elder Abuse Unit are unique, and require a high level of competency to effectively prosecute these matters to the fullest extent of the law.

Findings 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.*

Our office is ready, willing, and able to accept every single provable case of elder abuse that will be submitted by any law enforcement agency. The current number of submitted cases is being effectively dealt with by the resources currently allocated. The numbers of cases submitted will continue to be monitored. At any time that there is a spike or significant increase in the provable cases submitted, this office will not hesitate to assign additional resources. In addition, if that time comes, we will not hesitate to seek additional funding through the Board of Supervisors.

In order to assist law enforcement in the voluminous number of investigations that they have, the assigned prosecutor responds to calls, texts, emails, and even meets in person, if needed, with the officers and deputies to help them prioritize their own caseloads. Often, the prosecutor responds to calls and texts in the evenings and on weekends. In doing so, the law enforcement officers and deputies are able to maximize their focus and resources on cases that will be provable. Also, the prosecutor helps the law enforcement officers and deputies to distinguish between those matters that are purely civil in nature as opposed to criminal. This way, the agencies can best utilize their resources and therefore best serve our citizenry.

Findings F7 – *There is insufficient funding to adequately address elder abuse and prevention for Fresno County agencies.*

This response can only address the Fresno County District Attorney Office’s funding. There is currently adequate funding to address the prosecution needs of elder abuse cases in the District Attorney’s office. This office has, does, and will continue to participate in meaningful outreach to educate and prevent our senior population on the best ways to prevent becoming a victim of elder abuse. The prosecutor assigned to the Elder and Dependent Adult Abuse Unit currently is a member of the Elder Abuse Awareness & Prevention Conference Committee (as mentioned in the Grand Jury report) that puts on an annual conference to educate members in our community. In addition to being a member of the Conference Committee, the assigned prosecutor was a featured speaker in both annual conferences – the last of which he gave presentation, along with the assistance of FSO elder abuse detective, on tips to avoid being a victim of elder abuse. Moreover, the assigned prosecutor participates in the Adult Protective Services Multi-Disciplinary Team (MDT) monthly meetings. In addition, the prosecutor is a member of the Ombudsman Advisory committee that meets quarterly. The prosecutor also fields multiple phone calls and emails monthly by members in our community concerned about whether a loved one may be a victim of elder abuse. In addition to addressing their concerns, the prosecutor assists in pointing them in the proper direction of reporting to law enforcement, Adult Protective Services and/or Long-Term Care Ombudsman program – among others.

The District Attorney's Office will seek to add an investigative assistant/tech who will be tasked with doing outreach, monitoring a Fraud Prevention Hot Line, gathering necessary documentation to assist in obtaining restitution orders, and preparing and disseminating pamphlets and other information to make our citizens aware of the signs of elder abuse, and hopefully prevent people from becoming victims.

Recommendations R1 – *The Fresno County District Attorney consult with staff assigned to elder abuse, to proactively prepare a plan for the impending caseload increase.*

I have met with the prosecutor assigned to the Elder and Dependent Adult Abuse Unit and we have discussed the concerns at length and am satisfied that currently an appropriate plan is in place. My office has never turned down an elder abuse case on the basis that we did not have enough resources to prosecute the case. The fundamental inquiry has always been whether or not there is admissible evidence to prove beyond a reasonable doubt that the crime was committed. The prosecutor can handle the existing caseload as it is.

However, the crimes committed against our elder and dependent adults are unique and complex and require special approaches to be appropriately addressed. Because elder and dependent adults are often the most vulnerable segments of our society, they are deserving of special consideration and protection. To achieve this end, the Fresno County District Attorney's office proposes to expand the Elder and Dependent Adult Abuse Unit to have both an experienced prosecutor and add an investigative assistant/tech. With these two individuals assigned exclusively to the address the plight of our elder and dependent adults, both pro-active and re-active measures can be taken to assist elder and dependent adult victims.

The challenges prosecuting and investigating elder and dependent adult abuse are multi-faceted. The victims have several unique issues and problems which can only be adequately addressed by having a vertical sole prosecutor and investigative assistant/tech to deal exclusively with these issues. Elder and dependent adults often are confused, on various medications, have mental or physical impairments, and sometimes have difficulty understanding the nature of the criminal proceedings. Consequently, elder and dependent adults are less able to protect themselves, less able to understand or report criminal conduct, and less able to testify in court on their own behalf. Accordingly, only a dedicated prosecutor and investigative assistant/tech, who have knowledge of the above issues can appropriately meet the concerns of our elder and dependent adults.

Team Members

The **Prosecutor** would be charged with several responsibilities ranging from reviewing and analyzing law enforcement reports; making filing decisions concerning filing of criminal complaints; reviewing and analyzing complex legal issues; preparing and responding to motions; networking with all the local agencies to assist in the investigation of abuse allegations; interviewing victims and witnesses; conducting preliminary hearings; conducting grand jury indictments; conducting court or jury trials; visiting crime scenes; conducting further investigations into abuse allegations; attending monthly meetings involving networking with agencies involved in elder and dependent adult abuse; and participate in an Elder Death Review Team.

If added to the District Attorney's budget, the **Investigative Assistant/Tech** would be charged with several responsibilities ranging from gathering evidence from various law enforcement agencies; taking pictures of crime scenes; obtaining documents from financial institutions; interviewing witnesses; interviewing victims; implementing and monitoring a restitution recovery plan for the victims; coordinating field interviews so elder and dependent adult victims can be made aware of nature of criminal proceedings in the comfort of their own home; monitoring a Fraud Prevention Hotline; engaging in several facets of public speaking designed to educate and otherwise prevent elder and dependent adults from becoming victims of abuse; and field calls and letters from concerned individuals in the public.

Prevention and Education

Realizing that PREVENTION is the most significant thing that can be done to reduce crime to our elder and dependent adults, the unit provides for the investigative assistant/tech to EDUCATE the public, and thereby reduce the number of people being victimized. The first step in educating the public would involve raising the level of awareness of how our elder and dependent adults are being victimized. After raising the level of awareness, presentations would follow with discussions of how elders can take steps and measures to reduce the likelihood of them ever being a victim of abuse. The presentations would be given to senior citizens, dependent adults, law enforcement personnel, medical personnel, social workers, public guardians, prosecutors, probation officers, and concerned citizen groups.

In addition to conducting speaking presentations, the investigative assistant/tech would prepare literature and handouts for the purpose of dissemination to our elder and dependent adults. The information would focus on tips and suggestions to prevent people from becoming a victim of abuse.

Fraud Prevention Hotline

Often, elder and dependent adults are confronted with various forms of communication seeking money from them. In an effort to ensure that they are not victims of fraud, our program would have both the prosecutor and investigative assistant/tech set up a Fraud Prevention Hotline whereby calls, letters, and emails would be routed to our program and would be responded to in a timely matter. The communications would be geared toward education and preventing our elder and dependent adults from being a victim of fraud. The hotline could create the need for an in-house District Attorney Investigator. This potential need will be monitored and if needed additional monies will be sought for the position.

Restitution Recovery Plan

When our elder and dependent adults are victims of financial abuse, they often do not have the means to ever recover their losses. Because RESTITUTION is a significant concern for our elder and dependent adult victims, our unit would provide for both the prosecutor and investigative assistant/tech to establish and monitor a program designed at getting money directly back in the hands of our victims. The program would collect and disperse restitution monies directly to our victims.

Elder Death Review Team

Sometimes there are deaths of our elders that are suspicious and merit further review and scrutiny. In an effort to ensure that appropriate review and scrutiny is implemented, our program would require both the prosecutor and investigative assistant/tech to re-establish a monthly Elder Death Review Team. The team would be comprised of various experts in the area such as experts in the field of forensic pathology, medical personal with expertise in elder abuse and neglect, Coroners and Medical Examiners, District Attorneys and City Attorneys, Adult Protective Services social workers, Public Administrator, Public Guardian, County Health Department staff who deal with elder health issues, County Counsel, law enforcement personnel, Ombudsmen, community care licensing staff and investigators, geriatric mental health experts, and criminologists. The prosecutor and investigative assistant/tech would participate with this team.

Recommendations R3 – *The Fresno County District Attorney explore and pursue new sources of funding and grants designated for staffing elder abuse.*

This office is always open to finding various sources of funding to further expand its ability to prosecute crimes to the fullest measure as provided by the law. With a proposed investigative assistant/tech doing outreach, there are many avenues to explore to seek funding.

In the past, this unit sought and obtained funding under President Obama's Job Recovery Act. This funding lasted for three years from July 1, 2009 thru September 30, 2012. This funding paid for the assigned prosecutor. While this office has sought grant funding before, it is clear that expanding the unit and creating a prevention plan that a stable source of funding is best sought by the Board of Supervisors. This funding source will allow for consistency in the prevention and prosecution of elder and dependent adult abuse cases.

Sincerely,



Lisa A. Smittcamp
District Attorney

Cc: Jean Rousseau – County Administrative Officer
Fresno County Grand Jury



August 16, 2019

The Honorable Alan M. Simpson, Presiding Judge
Fresno County Superior Court
1100 Van Ness Avenue
Fresno, CA 93724-0002

Re: Response to the 2018-19 Fresno County Grand Jury Report No. 1

Dear Judge Simpson:

The Grand Jury's report reflects findings and recommendations regarding Elder Abuse and the challenges of serving and protecting an aging population. The Fresno County Department of Social Services (DSS) thanks the Grand Jury for its investment and includes the responses to the findings and recommendations below:

FINDINGS:

The Department agrees with Findings #1, 3, 6 - 9.

Finding #2: Awareness of the 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 caseloads.

Response 2: The Department agrees partially with Finding 2. There is no overarching legislative mandate, which supports a centralized approach to this work. As such, all Fresno County agencies are addressing the increase in the elder abuse caseload according to their own individual mandate. The Department acknowledges that gaps in delivery of services exist and would support any proposed legislation aimed at remedying this situation.

Finding #4: 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.

Response 4: The Department agrees partially with Finding 4. While the intent was to localize services available to elders at the Fresno Senior Resource Center, the concept never fully materialized. Though agencies will no longer be co-located, services provided to the elder population will continue despite the eventual closure of the Fresno Senior Resource Center.

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www.co.fresno.ca.us

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Finding #5: Fresno County Adult Protective Services (APS) does not have sufficient resources to practice proactive intervention directed towards those elders considered to be the most vulnerable to abuse.

Response 5: The Department agrees partially with Finding 5. DSS has increased the APS allocation with two additional APS staff members in the Fiscal Year 2019-2020 budget.

RECOMMENDATIONS:

Recommendation 2: 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)

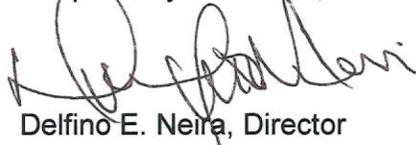
Response 2: The recommendation will not be implemented. Fresno County APS strongly supports the use of analytics with the intent of better serving the elder population. DSS has no legal authority to compel other departments or agencies to assist in and/or adhere to a standardized data collection methodology; however, DSS would welcome and support changes in legislation toward this need. Furthermore, DSS recommends the Board of Supervisors to adopt any resolution or support any future mandate, which would authorize and fund local entities to collect and analyze the resulting extensive data in order to formulate plans and generate strategies to address and reduce incidents of elder abuse.

Recommendation 4: 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)

Response 4: The recommendation will not be implemented. DSS has a long history of developing collaborative partnerships with area agencies in an effort to serve the elder population. Fresno County APS has no sanctioned authority over other departments or agencies, nor are there statutes or funding to support a formalized community approach to public awareness, prevention, and education of elder abuse. DSS supports the passage of any legislative solutions to better support this need.

This concludes the Fresno County Department of Adult Protective Services comments on the findings and recommendations of the Fresno County Grand Jury Report No. 1, July 2019.

Respectfully submitted,



Delfino E. Neira, Director

cc: Yussel Zalapa, Administrative Analyst, County Administrative Office

REPORT & RESPONSES #2

First Five Fresno County



First Five Fresno County
Fresno County Grand Jury Report No. 2
July 2019

SUMMARY

The 2018-2019 Grand Jury received a citizen complaint requesting the review of two issues regarding First 5 of Fresno County (hereinafter “First 5 Fresno”). The first issue concerned the number of commissioners on the First 5 Fresno Commission; the second issue questioned whether First 5 Fresno’s use of funds to purchase property and build the Lighthouse for Children (hereinafter “Lighthouse”) building was an appropriate use of Proposition 10 funds.

Based on the Grand Jury’s investigation, it is concluded that First 5 Fresno is not in compliance with the California statute regarding the criteria used in the appointment of its commission and that the use of First 5 Fresno funds to build the Lighthouse was an appropriate economic use of surplus funds.

BACKGROUND

First 5 of California was established in 1998 pursuant to the passing of Proposition 10, known as “The California Children and Families Act of 1998” (hereinafter “the Act”). The purpose of the Act is to promote the health and education of children in their first five years. Pursuant to the Act, the California Children and Families Commission, also known as First 5 California, was established. First 5 California and the various county First 5 commissions are funded from a tax on tobacco products sold in California. Each county’s First 5 commission then disperses these funds to local organizations that offer direct services for child care, preventative health, early education, and other family support services for children age five and under. [California Health & Safety Code section 130100, *et seq.*]

Pursuant to the Act, each county’s First 5 commission or board can be either an independent public agency with its own commission appointed by the county’s Board of Supervisors, or a department within the county government. In 1998, and revised in 1999, the Fresno County Board of Supervisors created the Children and Families Commission (First 5 Fresno) [Fresno County, CA Code of Ordinances 2.38, *et seq.*] as an independent public agency with its own commission and by-laws. The original 1998 ordinance required the First 5 Fresno commission to be composed of five members. This number was increased to nine in 1999. The commission members are to be from the following groups: One commissioner would be a member of the Fresno County Board of Supervisors; two commissioners were to be Fresno county employees chosen from the “county health officer and persons responsible for management of the following

county functions: children’s services, public health service, behavioral health services, social services, and tobacco and other substance abuse prevention and treatment services;” and six from either the above group and from recipients of project services, early childhood development educators, local child care agencies, organizations working for the prevention or early intervention for families at risk, community based organizations having the goal of promoting nurturing and early childhood development, local school districts, and medical professions.

Additionally, the ordinance required the commissioners be guided by the County of Fresno Administrative Policy Number 1, “Code of Ethics.” County of Fresno Administrative Policy Number 1 is basically a listing of how a county employee should conduct him/herself in an ethical manner, including not dispensing special favors or privileges that might be construed as influencing the performance of one’s duties or in a manner to promote personal goals. Essentially, it is a conflict of interest prohibition.

In 2014, partly because two positions on the Commission had never been filled (pursuant to interviewees), and partly because of what appeared to be a difference of opinion among Supervisors,, the Board of Supervisors reduced the number of commissioners from nine to seven persons coming from the same categories stated above.

As indicated by interviewees, commencing January 2012, First 5 Fresno researched and determined that there was a need for child care in downtown Fresno for Fresno County employees and granted Fresno County funds to open and operate a child care center at the Fresno County Plaza. At the same time, First 5 Fresno started a search for an administrative office and child care center. To this end, First 5 Fresno sought to purchase property in downtown Fresno from the City of Fresno using unspent tobacco tax funds and loans. However, First 5 Fresno, as a government agency, could not take advantage of the New Market Tax Credits (“NMTC”) to purchase and build the structure, so it established Lighthouse as a non-profit 501(c)(3) agency to take ownership and management of the building which, when built, would offer not only administrative offices for First 5 Fresno but also offer space to child care service providers.

This report does not address the issue of whether the use of surplus funds to build the Lighthouse was an appropriate use of funds insofar as accomplishing the mission of First 5.

METHODOLOGY

Face-to-face interviews were conducted with people who have knowledge regarding the issues before the Grand Jury.

All NMTC documents were reviewed by a certified public account.

Documents reviewed

Pertinent portions of the Children and Families Act
Fresno County, CA Code of Ordinances
County of Fresno, Board of Supervisors Meeting Agenda Item(s)
First 5 Fresno By-Laws
NMTC Loan documents
NMTC Operating Agreements

Internet search

First 5 Fresno website
Fresno County Recorder website
US New Market Tax Credit website

DISCUSSION

In 2014, when the Fresno County Board of supervisors voted to change the ordinance to decrease the number of First 5 Fresno commissioners from nine to seven, it also passed an ordinance with a stringent conflict of interest provision. The new ordinance (Fresno County Ordinance Code §2.38.010.D.) excluded any person from being a commissioner who was employed by, consulted for or contracted with, or had a spouse, partner, or immediate family member who was employed by, consulted for or contracted with, any agency or organization that is a recipient of First 5 Fresno funds. This new ordinance has proven to be, in effect, in conflict with sections 130140(a)(1)(A)(iii) of the Act regarding the qualifications of the commissioners in that it added restrictions that served to reduce the pool of community-wide potential applicants. According to several interviewees, efforts made to recruit additional commissioners have been hindered in large part due to the stringent conflict of interest qualification.

Pursuant to information provided by interviewees and the First 5 Commission minutes on First 5 website, since 2014, there have not been seven First 5 Fresno commissioners; there have been only five commissioners serving on the commission since that time: one member from the Board of Supervisors; two members from Fresno County; and two from the community. At the time of the investigation, the First 5 Fresno commission included community member(s) who did not meet the statutory qualifications for commission community members. It appeared their only qualifications were parenthood, financial acumen, relationship with an underserved community, and presence on a variety of boards. These qualities are not among those stated in the statute or ordinance as a qualifying criteria to be a community member of the First 5 Fresno commission. (See, H&S § 130140(a)(1)(A)(iii); Fresno Co Code of Ordinances § 2.38.010.B.)

A qualified person wishing to be appointed to First 5 Fresno's commission, can fill out an application obtained from their local Supervisor's office or from the Board of Supervisors' website.

As stated above, First 5 Fresno determined in 2012 that a child care center in downtown Fresno was necessary and that it wanted to leave a legacy of helping families and children by building a permanent home that could be used by First 5 Fresno for administrative purposes, as well as provide a centrally located day care center, educational support and, eventually, medical care for children age five and under. New Market Tax Credits were found to be a tool to build this permanent home for 61% of cost.

New Market Tax Credits were created by the U.S Congress in 2000 to assist low income areas where the poverty rate was at least 20%. Investment money is made available to these communities for businesses or economic development projects. In return, a 39% tax credit is made available to investors.

In order to build this legacy, First 5 Fresno founded Lighthouse as a non-profit agency to purchase and own the property in order to take advantage of the NMTC to secure construction loans. First 5 Fresno's payment for the purchase of the property and construction of the building was \$10,956,060.00 in cash. This cash came from unused grant funds which had been returned to First 5 Fresno by its partners. First 5 Fresno had been saving these funds since its inception.

NMTC work as follows: A lending institution invests funds in a non-profit agency and receives a tax credit in the amount of the investment and interest payments from mortgagee. In this instance, Chase Community Equity, LLC, invested \$8,000,000.00 into Chase NMTC Lighthouse Investment Fund for 100% ownership. In addition, First Five loaned \$10,956,060 to Chase NMTC Lighthouse Investment Fund. At that time, Chase NMTC Lighthouse Investment Fund made four loans totaling \$16,000,000 to Lighthouse for the necessary purchase and construction funds. A Put/Call agreement between Chase Community Equity, LLC, and First 5 Fresno includes an ownership put/call option which may be exercised in 2020. Chase Community Equity, LLC, may "put" (sell) its ownership interest in Chase NMTC Lighthouse Investment Fund to First 5 Fresno or First 5 Fresno may "call" (buy) all of Chase Community Equity's equity in Chase NMTC Lighthouse Investment Fund. In either case, upon the exercise of the put/call option in 2020, First 5 Fresno will own 100% of Chase NMTC Lighthouse Investment Fund. First 5 Fresno will then cancel the loans and Lighthouse will own the building free and clear of debt. The put/call exercise price would be \$1,000.00 plus fees.

The current value of the property and building is approximately \$16 Million.

The Lighthouse building is leased to First 5 under a Master Lease Agreement. First 5's 2019-2020 proposed budget states that First 5 occupies 15% of the space for its administrative offices.

The remaining space is subleased. In addition, First 5 Fresno is in negotiation with Valley Children's Hospital to build an additional facility on the property, at no extra cost to First 5 Fresno, to house medical services for children.

FINDINGS

- F1. Not all available commission positions are filled.
- F2. Not all of the current commissioners meet the qualification criteria to be a commissioner as required by the Act.
- F3. The conflict of interest ordinance (Fresno County Ordinance Code § 2.38.010.D.) enacted in 2014 is, in effect, in conflict with the Act in that it has excluded from the Commission the very people from the community that the Act expressly states are qualified to serve on the Commission.
- F4. First 5 Fresno appropriately and wisely used their tobacco funds and NMTC to facilitate the purchase of property and building of a facility in downtown Fresno to be used for day care, education, and medical care of children age 5 and under. First 5 Fresno is to be commended for being good stewards of their funds.

RECOMMENDATIONS

- R1. Fresno County Board of Supervisors fill all available commission positions by December 31, 2019. (F1)
- R2. Fresno County Board of Supervisors should review the qualifications of all current First 5 Fresno Commissioners in light of the requirements of the State mandated standard as codified by California Children and Families Act of 1998 by December 31, 2019. (F2)
- R3. Fresno County Board of Supervisors should modify Fresno County Ordinances Code § 2.38.010.D., the conflict of interest ordinance, to conform to the Act and County of Fresno Administrative Policy No 1 by December 31, 2019. (F3)

REQUEST FOR RESPONSES

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.

RESPONDENTS:

Chairperson of Fresno County Board of Supervisors (F1, F2, F3 and F4) and (R1, R2, and R3)

Emilia Reyes, Executive Director of First 5 Fresno (F1 and F2) and (R2)

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.

County of Fresno
Board of Supervisors
RESPONSE TO THE
2018-19
FRESNO COUNTY GRAND JURY
FINAL REPORT No. 2



FIRST FIVE FRESNO COUNTY

Please find below the Fresno County Board of Supervisors' response to the 2018-19 Grand Jury Final Report No. 2.

Findings:

F1. Not all available commission positions are filled.

F1: The Board of Supervisors agrees with the finding.

F2. Not all of the current commissioners meet the qualification criteria to be a commissioner as required by the Act.

F2: The Board of Supervisors disagrees wholly with the finding; current First 5 Commissioners meet the Membership criteria as set forth in Fresno County Ordinance Code §2.38.010, which complies with the State of California Health and Safety Code Section §130140.

F3. The conflict of interest ordinance (Fresno County Ordinance Code § 2.38.010.D.) enacted in 2014 is, in effect, in conflict with the Act in that it has excluded from the Commission the very people from the community that the Act expressly states are qualified to serve on the Commission.

F3: The Board of Supervisors disagrees wholly with the finding; Fresno County Ordinance Code §2.38.010(D) establishes eligibility to serve on the First 5 Commission pursuant to State of California Health and Safety Code Section §130140(a)(1)(B).

F4. First 5 Fresno appropriately and wisely used their tobacco funds and NMTC to facilitate the purchase of property and building of a facility in downtown Fresno to be used for day care, education, and medical care of children age 5 and under. First 5 Fresno is to be commended for being good stewards of their funds.

F4: The Board of Supervisors has no response.

Recommendations:

R1. Fresno County Board of Supervisors fill all available commission positions by December 31, 2019.

R1: Recommendation has not yet been implemented, but will be implemented in the future, contingent on eligibility and availability of interested candidates.

R2. Fresno County Board of Supervisors should review the qualifications of all current First 5 Fresno Commissioners in light of the requirements of the State mandated standard as codified by California Children and Families Act of 1998 by December 31, 2019.

R2: Recommendation will not be implemented because it is not warranted; current First 5 Commissioners meet the Membership criteria as set forth in Fresno County Ordinance Code §2.38.010, which complies with the State of California Health and Safety Code Section §130140.

R3. Fresno County Board of Supervisors should modify Fresno County Ordinances Code § 2.38.010.D., the conflict of interest ordinance, to conform to the Act and County of Fresno Administrative Policy No. 1 by December 31, 2019.

R3: Recommendation will not be implemented because it is not warranted; Fresno County Ordinance Code §2.38.010(D) establishes eligibility to serve on the First 5 Commission pursuant to State of California Health and Safety Code Section §130140(a)(1)(B). However, the County will review the Ordinance for potential expansion of membership eligibility.

August 21, 2019

The Honorable Alan M. Simpson
Presiding Judge
FRESNO COUNTY SUPERIOR COURT
1100 Van Ness Avenue
Fresno, CA 93724

RE: Response to Fresno County Grand Jury Report No. 2 – First 5 Fresno County

Dear Judge Simpson:

On behalf of the Chair Brian Pacheco and the Commissioners of the Children and Families Commission of Fresno County, also known as First 5 Fresno County, I am in receipt of Fresno County Grand Jury Report No. 2 ("Report"). As you know, the Report evaluated the number and qualifications of commissioners on the First 5 Fresno Commission and the use of funds to develop and construct the Lighthouse for Children building located in Downtown Fresno.

You have asked me to respond to Findings F1 and F2, as well as Recommendation R2. As a preliminary matter, I want to thank the Grand Jury for its exhaustive review into the activities of First 5 Fresno County and especially for its finding (F4) that our agency "appropriately and wisely used their tobacco funds and the [New Market Tax Credit] to facilitate the purchase of the property and building of a facility in downtown Fresno to be used for a day care, education, and medical care of children age 5 and under." You conclude this finding to state that "First 5 Fresno is to be commended for being good stewards of their funds."

First 5 Fresno County is very proud of the hard work by its commissioners and staff to enhance the lives of children age 0-5. The agency, which is now over 20 years old, has partnered with local governmental and community-based organizations, to improve the lives of tens of thousands of children in Fresno County. The Lighthouse for Children building has been critical to our mission to implement programs, services and training opportunities in support of young children and their families. First 5 Fresno County and community partners offer families a learning environment where they feel safe, supported and prioritized.

It is very gratifying to know that the Grand Jury, after spending an extraordinary amount of time learning about our agency and exploring our financial stewardship, offers its commendations for these efforts.

Finding 1: Not all available commission positions are filled.

Response 1: Chapter 2.38 of Title 2 of the Fresno County Ordinance establishes the First 5 Fresno County Commission and, among other things, describes the process and the criteria that the Fresno County Board of Supervisors uses to appoint Commissioners. First 5 Fresno County works very closely with County staff to answer and assist them in whatever they might need to make these

appointments. Ultimately, however, the County Board of Supervisors makes these appointments to the Commission and not First 5 Fresno County.

First 5 Fresno County continues to enjoy a very positive relationship with the County in this effort. Just recently, the Board of Supervisors appointed Dr. Marcia Sablan, a family medicine physician, from Firebaugh to the Commission. Dr. Sablan had been a Commissioner for many years and First 5 Fresno County is delighted that she is back. Additionally, the Board of Supervisors appointed Shantay Davies-Balch to the Commission. Mrs. Balch currently serves as the Maternal Child Health Director for the Central San Joaquin Valley on behalf of March of Dimes. She leads the statewide Maternal Child Health Committee, is the Advocacy and Government Affairs Liaison, and is the March of Dimes co-lead for statewide health equity initiatives.

As of this writing, there is one vacancy on the Commission. First 5 Fresno County is working with the Board of Supervisors on this appointment and we are hopeful that the position will soon be filled.

Finding 2: Not all current commissioners meet the qualification criteria to be a commissioner as required by the Act.

Response 2: As mentioned, the County Board of Supervisors appoints all members of the First 5 Fresno County Board of Commissioners. Health and Safety Code section 130140 provides the minimum criteria for the qualifications of commissioners. It provides that:

The county commission shall be appointed by the board of supervisors and shall consist of at least five but not more than seven members.

(i) Two members of the county commission shall be from among the county health officer and persons responsible for management of the following county functions: children's services, public health services, behavioral health services, social services, and tobacco and other substance abuse prevention and treatment services.

(ii) One member of the county commission shall be a member of the board of supervisors.

(iii) The remaining members of the county commission shall be from among the persons described in clause (i) and persons from the following categories: recipients of project services included in the county strategic plan; educators specializing in early childhood development; representatives of a local child care resource or referral agency, or a local child care coordinating group; representatives of a local organization for prevention or early intervention for families at risk; representatives of community-based organizations that have the goal of promoting nurturing and early childhood development; representatives of local school districts; and representatives of local medical, pediatric, or obstetric associations or societies.

The Grand Jury Report makes reference to "community member(s) who did not meet the statutory qualifications for commission community members. It appeared their only qualifications were

parenthood, financial acumen, relationship with an underserved community and presence on a variety of boards."

At present, there is no member of the Commission whose primary qualifications are as specified above. Rather, in addition to the two newest members described above who are representatives of the local medical community and a local organization for prevention and early intervention for families at risk, respectively (See Health & Safety Code §130140(a)(iii)), the rest of the Commissioners appear to meet the minimum qualifications as provided by statute. These members include a member of the County Board of Supervisors (See Health & Safety Code §130140(a)(ii)), the Director of the Fresno County Department of Child Support Services and the Director of the Fresno County Behavioral Health Department (See Health & Safety Code §130140(a)(i)), and the CEO of a nonprofit radio network with Latino control and leadership, and the only producer of national **bilingual** programming in the public **radio** system that regularly provides information on early childhood development to its listeners (See Health & Safety Code §130140(a)(iii)).

Again, First 5 Fresno County continues to work very closely with the Fresno County Board of Supervisors on the appointment of Commissioners to the agency.

Recommendation 2: The Fresno County Board of Supervisors should review the qualifications of all current First 5 Fresno Commissioners in light of the requirements of the State mandated standards as codified by California Children and Families Act of 1998 by December 31, 2019.

Response 2: This recommendation is specifically directed to the Fresno County Board of Supervisors and not to me as the Executive Director of First 5 Fresno County. Again, the agency has and will work with the Board of Supervisors to ensure that all Commissioners are qualified and ready to serve on the Commission.

First 5 Fresno County appreciates the effort and recommendations reached by the Grand Jury. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Emilia Reyes". The signature is written in a cursive, flowing style.

Emilia Reyes
Executive Director

REPORT & RESPONSES #3

9-1-1



9-1-1
Fresno County Grand Jury Report No. 3
July 2019

SUMMARY

In response to a citizen's complaint, the Fresno County Grand Jury 2018-2019 investigated the Fresno Police Department 9-1-1 Communication Center. The complaint addressed concerns regarding the staffing of the 9-1-1 Communication Center, the amount of call waiting times for both emergency and non-emergency 9-1-1 calls, and the possible loss of financial support provided by the Governor's Office of Emergency Services (Cal OES) for not answering 9-1-1 calls in the mandated time frame. The Fresno County Grand Jury initiated an investigation to address these concerns.

BACKGROUND

Fresno Police Department 9-1-1 Communication Center "FPD CommCen" is the first line of communication between a victim and the Fresno Police Department. The dispatchers then communicate this information to officers and emergency medical services to assist them in handling the citizen's call for service (CFS"). Fresno Police Department "FPD" participates in Public Safety Answering Points (PSAP) which allocates funding to agencies that participate in the program. However, funding may be withheld if standards established by the Governor's Office of Emergency Services "Cal OES" are not met and maintained. The Cal OES 9-1-1 Operations Manual states that 95 percent of 9-1-1 calls must be answered within 15 seconds.

Fresno Police Department (FPD) 9-1-1 Communications Center (CommCen) Staffing

The FPD CommCen's current staffing allocation is 95 dispatchers. This includes six supervisors, seven temporary employees, and seven vacancies. The FPD CommCen dispatcher staffing is derived from the volume of calls received. From May 2017 to April 2018, the FPD 9-1-1 CommCen received more than 970,000 calls. According to Emergency Call Tracking System "ECATS", an additional 43 dispatchers would be required to accommodate that high volume of calls. ECATS is a program utilized by the State of California. This system tracks call waiting as well as answer times, and recommends staffing levels within the individual communication center.

The recession of 2007-2009 led to Fresno city wide lay-offs and severely diminished the FPD CommCen staffing levels. The dispatch staffing level has not fully recovered since the recession and is unable to meet the high volume of calls. In fiscal years 2017 and 2018, the FPD requested

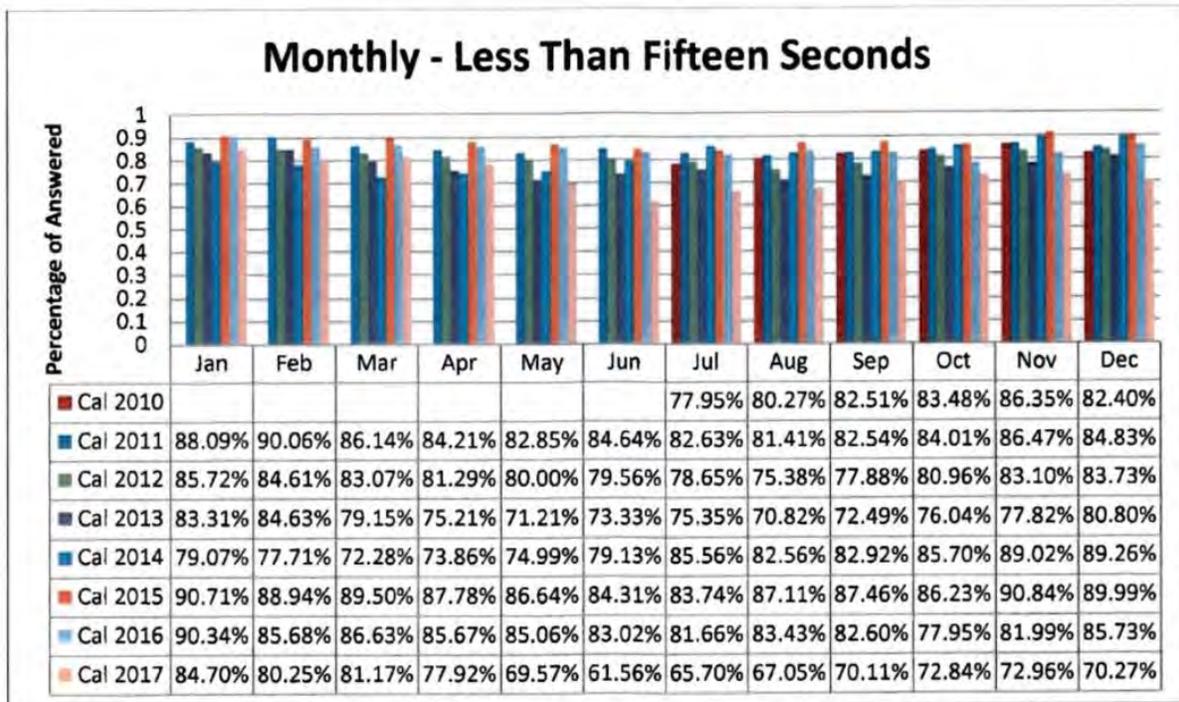
13 dispatchers on their annual budget request to city council and received zero. For fiscal year 2019, FPD requested 17 dispatchers of which eight were approved. Additionally, the FPD CommCen is located in a 2500 square foot underground office with zero room for expansion. The CommCen has 34 dispatch stations. However, FPD management recommends that a CommCen with the volume of 9-1-1 calls such as FPD receives have 43 dispatch stations.

The recruitment, hiring, and training process for dispatch positions is lengthy and costly. The average time that is required for a new hire to be fully vetted and trained is approximately eight to 12 months. The position of dispatcher requires the ability to multi-task and to handle stressful situations on a daily basis. This often leads to new hires leaving during training or transferring to another department or agency.

In summary: The staffing of the FPD 9-1-1 dispatcher significantly reduced during the 2009 recession and has yet to be fully staffed at an appropriate level. Additionally, while staffing decreased, the number of 9-1-1 calls has increased which has created an overabundance of calls to handle by the current staffing. Furthermore, the FPD 9-1-1 CommCen needs to be relocated to a new location where expansion is possible. The current location of the dispatch center does not provide the expansion needed to coincide with the City of Fresno's needs today or in the future.

Emergency and Non-emergency Call Waiting Times

The FPD 9-1-1 CommCen is required to answer 95 percent of all 9-1-1 calls within 15 seconds per the California 9-1-1 Emergency Communications Branch manual. The CommCen uses the State of California's reporting system, Emergency Call Tracking System (ECATS), to track their call waiting and answer times. Since July 2010, the dispatch center has not met the established standard in answering 9-1-1 calls. The highest level the CommCen achieved was in November 2015 when they answered calls at 90.84 percent within 15 seconds. Below is historical data that displays the 9-1-1 CommCen call answer times from 2010 to 2017:



According to FPD management, the FPD 9-1-1 CommCen receives the highest number of emergency and non-emergency calls in the Central Valley, and has an unusual high volume of calls based on population. Additionally, the volume of 9-1-1 calls increases during the summer months and contributes to the lower percentages in call answer times.

Additional contributors to the low percentage of 9-1-1 call answer times are the high volume of non-emergency or pocket dials. According to FPD management, fifty-seven percent of daily incoming 9-1-1 calls are non-emergency or pocket dial calls. On average, the dispatch center receives an estimated 86,000 calls for service per month, of which only about 37,000 are actual emergencies. The high volume of non-emergency or pocket dial calls contributed significantly to the CommCen’s low answer time percentages.

In March 2019, the City of Fresno launched the 3-1-1 program for all non-emergency issues (i.e., code enforcement complaints, graffiti, traffic signals). One of the expectations of the 3-1-1 program is to minimize the burden of non-emergency calls taken by the emergency service dispatchers. At the time of this report, there is no statistical data to support if the 3-1-1 program is reducing emergency service calls.

In summary: There are several factors why the FPD 9-1-1 CommCen has never met the requirement per Cal OES. One is the low number of dispatchers to answer calls. The second is the increase in cell phone technology and the usage of cellular phones. The third factor is the high volume of non-emergency and pocket dial calls coming into the dispatch center.

Addressing these three issues would significantly improve the services provided by the dispatch center. The most important aspect of not answering a 9-1-1 call within 15 seconds is the possible loss of life or serious injury.

Fresno Police Department 9-1-1 Communication Center Budget

The City of Fresno's General Fund is the major source of funding for the FPD 9-1-1 CommCen. In fiscal year 2019, the CommCen's budget was more than \$7.8 million dollars. These funds were used for the overall operations of the CommCen (i.e. personnel payroll, benefits, office supplies, etc.). Due to decreased staffing and the increase of incoming calls, a significant portion of the dispatch center's budget is being spent on the mandatory overtime policy. In fiscal year 2019, the amount appropriated for overtime was \$160,000.

Additional funding for 9-1-1 CommCen equipment (i.e. major system upgrades) is provided from Cal OES every five to eight years (based on CommCen request). The last time the CommCen received funds from Cal OES was in December 2016. The total Cal OES funding that was provided totaled more than \$2.6 million dollars to the FPD CommCen. This funding is provided to all participating 9-1-1 centers throughout California and the funding can only be used for equipment upgrades. In order for the dispatch center to receive Cal OES funding, the Cal OES manual requires that 95 percent of 9-1-1 calls be answered within 15 seconds. Since the inception of the Cal OES program in 2010, the FPD 9-1-1 CommCen has failed to meet the 95 percent threshold but continues to receive funding. Although funding has been provided since 2010, there is no guarantee of future funding if the standard is not met. At this time, the Fresno Police Department does not have a contingency plan for funding in place in the event that Cal OES stops providing funds for equipment upgrades.

In summary: The Fresno Police Department 9-1-1 Communication Center has received funding from Cal OES for its equipment upgrades since Cal OES' inception. The issue of possible loss of funds comes from the lack of the dispatchers ability to answer the high volume of 9-1-1 calls coming into the CommCen. Cal OES may stop providing funds to the Fresno Police Department if it is unable to answer 911 calls within the 15 second time frame requirement. If funding ceased from Cal OES, the City of Fresno's General Fund would have to absorb future equipment upgrade funding costs.

FINDINGS

- F1. The FPD 9-1-1 CommCen Dispatchers are doing an outstanding job.
- F2. The FPD 9-1-1 CommCen Center is understaffed as a result of the 2007-2009 recession.
- F3. The understaffing and high volume of calls has created mandatory overtime.

- F4. The recruitment and hiring process for dispatchers is an extensive, costly, and time consuming process.
- F5. The dispatcher training is arduous and stressful which results in some dispatch hires not completing the training process.
- F6. The FPD 9-1-1 CommCen is limited on space with no room for expansion.
- F7. The FPD 9-1-1 CommCen is at risk of losing more than \$2.6 million dollars of Cal OES funding if they don't meet the call answer time requirement.
- F8. The FPD has no contingency plan to fund the equipment upgrades if they lose Cal OES funding.

RECOMMENDATIONS

- R1. Recommend funding be approved for dispatch staffing to be returned to pre-recession (2007-2009) levels. (F2, F3, F4)
- R2. Streamline the dispatcher recruitment, hiring, and training process. (F5)
- R3. Develop Public Service Announcements to educate the public about the purpose of the 3-1-1 program and the Fresno Police Department's non-emergency phone number (559-621-7000). (F3)
- R4. Relocate the dispatch center to a larger facility to accommodate current Cal OES staffing recommendations and future growth. (F6)
- R5. Develop a contingency plan in the event Cal OES funding is withheld. (F7, F8)
- R6. Research and secure other funding sources for the 9-1-1 dispatch center (i.e. grants and foundations). (F7, F8)

METHODOLOGY

Fresno County Grand Jury:

- Toured all three major law enforcement agencies dispatch centers (Fresno Police Department, Clovis Police Department, and Fresno County Sheriff's Office).
- Conducted interviews with employees of Fresno Police Department and external agencies.
- Reviewed documents from Fresno Police Department, Fresno County Sheriff's Office, Clovis Police Department, and the Office of Independent Review.

- Conducted sit along with dispatchers within the Fresno Police Department, Clovis Police Department, and Fresno County Sheriff’s Office.
- Reviewed the Cal OES 9-1-1 Operations Manual and Fresno’s statistical data.
- Attended the Fresno Madera Police Chiefs Association’s monthly meeting.

GLOSSARY

Cal OES	Governor’s Office of Emergency Services
CFS	Calls for Service
COMMCEN	Communications Center
ECATS	Emergency Call Tracking System
EMS	Emergency Medical Services
ESD	Emergency Services Dispatch
FPD	Fresno Police Department
PSA	Public Service Announcement
PSAP	Public Safety Answering Points

REQUEST FOR RESPONSES

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.

RESPONDENTS:

Lee Brand, City of Fresno Mayor (F2, F3 and F6) and (R1, R3, R4, R5 and R6)

Jerry Dyer, Fresno Chief of Police (F1, F2, F3, F4, F5, F6, F7 and F8) and (R1, R2, R3, R4, R5 and R6)

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.



MAYOR LEE BRAND

September 19, 2019

The Honorable Alan M. Simpson, Presiding Judge
Fresno Superior Courthouse
1100 Van Ness Avenue
Fresno, California 93721

Re: Responses to Grand Jury Final Report No. 3 for Fiscal Year 2018-19

Dear Judge Simpson:

We appreciate the opportunity to respond to the Fresno County Grand Jury's 2018-19 Report No. 3 regarding the review of the Fresno Police Department's 911 Communication Center (CommCen) in response to a citizen's complaint. The complaint addressed concerns regarding the staffing levels of the 911 Communication Center, the amount of call waiting times for both emergency and non-emergency 911 calls, and the possible loss of financial support provided by the Governor's Office of Emergency Services (Cal OES) for not answering 911 calls in the mandated time frame.

Included in this document are statements in response to the overall work of the Fresno County Grand Jury in issuing Report No. 3 and its findings, followed by specific responses to the Grand Jury's recommendations.

First and foremost, we would like to convey our appreciation to the Grand Jury for focusing its attention on the issue of staffing shortages and response times for the City's 911 system. The City of Fresno has long been aware that our emergency call response time has been nearing dangerous levels and we have already been working on solutions to reduce the workload on our dispatchers and bring ourselves into compliance with the standards set by the Governor's Office of Emergency Services (Cal OES). We also appreciate the Grand Jury's acknowledgement that our 911 CommCen dispatchers are doing an outstanding job in a challenging work environment:

Second, we would like to clarify some information made in Report No. 3 regarding understaffing created by the recession of 2007-2009. The Fresno Police Department's 911 Communications Center is currently staffed with 95 full time Emergency Service Dispatchers and six supervisors. Based on the call volume coming into our 911 center, the State of California's Emergency Call Tracking System (ECaTS) recommends an additional 35 Emergency Service Dispatchers. Since 911 call centers are 24/7 operations, these 35 additional positions represent 6 new dispatchers per shift.

Our CommCen staff currently has 11 vacancies, and is in the process of filling these positions. In addition to the vacancies, the 911 center is also carrying 8 long term absences. To maintain minimum staffing levels in our center, the Police Department utilized \$398,947 in overtime in Fiscal Year 2018-2019 or 149% over our allocated budget.

The 2018-19 Grand Jury Report #3 indicates the recruitment and hiring process for dispatchers is an extensive and time consuming process and the training is arduous and stressful. We currently average four to six months from the time the recruitment opens to receiving names to begin the background process. From there, it can be an additional 12-14 months to get a dispatcher hired and trained to perform a full range of duties, and the level of multitasking required is demanding. The dispatcher training process is

arduous and difficult because the job is arduous and difficult. These factors make it difficult to streamline the process more than we are already doing.

Compounding the situation is the lack of adequate space in the CommCen, as pointed out in the 2018-2019 Grand Jury Report No. 3. The Cal EOS assessment for our previous remodel in 2016 recommended a total of 43 dispatch consoles in our center, but due to space limitations, we were only able to accommodate 34 positions on the existing floor space.

Finally, the report states that the Fresno Police Department is at risk of losing more than \$2.6 million of Cal OES funding if they don't meet the call answer time requirement. The City of Fresno's next opportunity for 911 center funding upgrades occurs in August of 2023 and it is our goal to work diligently with Cal EOS to implement all of their standards and meet the call answer time requirements by August of 2023 in order to receive funding. We feel strongly that, while this is a mandate, it is unlikely that we will lose funding as we are performing similarly to agencies of our size and call volume.

Pursuant to the Grand Jury's request, we offer the following responses to recommendations R1-6:

R1. Recommend funding be approved for dispatch staffing to be returned to pre-recession (2007-2009) levels.

With the addition of eight new dispatch positions allocated to the FY20 mid-year budget, we are now at pre-recession 2007 staffing levels. However, 911 calls have increased 34.23% in our city since then and our staffing levels need to grow to match call volume and will be addressed in future budget discussions.

R2. Streamline the dispatcher recruitment, hiring, and training process.

We implemented a new training process which provides group instruction on basic skills outside of the 911 system, reducing our one-on-one training time by 6 weeks. We are also in the process of examining a non-emergency class of call takers, which would allow employees to develop a large portion of the skills needed to become a 911 dispatcher. This would provide a ready pool of potential employees who could be further trained and on the job in substantially less time than a typical new hire.

R3. Develop Public Service Announcements to educate the public about the purpose of the 311 program and the Fresno Police Department's non-emergency phone number (559-621-7000).

We are already planning an extensive public service campaign in the coming months to effectively promote our new Fresno 311 system and urge people to use it for all non-emergency calls to reduce the stress on our 911 operators. In the meantime, we take every opportunity in media interviews and social media posts to educate our residents about 311, which is designed to provide access to city services, report issues and get information on a City-related subjects through a system that's more accessible, transparent, and user-friendly.

R4. Relocate the dispatch center to a larger facility to accommodate current Cal OES staffing recommendations and future growth.

We have discussed the need for a larger dispatch center but the cost estimates have made the decision problematic. In the meantime, we're looking into the funding needed to begin a seismic retrofit and remodel of the Municipal Service Center for a new dispatch center. This project would need to be completed by August of 2023 to take advantage of the next cycle of California Office of Emergency Services 911 center funding. The current 911 center would then be utilized as an emergency backup center.

R5. Develop a contingency plan in the event Cal OES funding is withheld. (F7, F8).

We feel strongly that it is unlikely that we will lose funding as we are performing similarly to agencies of our size and call volume. We will work diligently with Cal EOS to implement all of their standards and meet the call answer time requirements by August of 2023 in order to receive funding.

R6. Research and secure other funding sources for the 9-1-1 dispatch center (i.e. grants and foundations).

We will take every opportunity to identify a wide variety of funding sources, from the regional to the federal level, that would provide financial assistance or grant funding for essential community facilities like an upgraded dispatch center and deliver optimal 911 service to our community.

Again, thank you for dedicating time and attention to the issue of wait times for calls to the Fresno Police Department's 911 Communication Center. We are grateful for the efforts to elevate the profile of this issue. If there are any questions, please feel free to contact City Manager Wilma Quan's office at 559-621-7770.

Sincerely,



Lee Brand
Mayor



Wilma Quan
City Manager



Andy Hall
Acting Police Chief