

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

ELDER ABUSE
SUBJECT

DATE: March 1, 2005

NO: D-4

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: Elder Abuse
Dependent Adult Abuse
Senior Citizen Abuse

I. POLICY

- A. It is the policy of the Stockton Police Department to investigate all reported cases of elder or dependent adult abuse as defined in Chapter 11 of the Welfare and Institutions Code.
- B. All cases of abuse, neglect, or abandonment of elders, or dependent adults will be reported and coordinated with other agencies as required under Chapter 11 of the Welfare and Institutions Code.

II. LAW

- A. Section 368 P.C. - Elder or dependent adults; infliction of pain or mental suffering or endangering health; or embezzlement of property; penalties; definitions:
 - 1. Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, four years.
 - 2. Any person 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, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health may be endangered, is guilty of a misdemeanor.

III. DEFINITIONS

- A. Elder: Any person 65 years of age or older.
- B. Dependent Adult: Any person between the ages of 18 and 64, who has physical or mental limitations, which restricts his or her ability to carry out normal activities or to protect his or her rights including, but not limited to persons, who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.
- C. Physical abuse means all of the following:
 - 1. Section 240 P.C. - Assault as defined.

2. Section 242 P.C. - Battery as defined.
3. Section 245 P.C. - Assault with a deadly weapon or force likely to produce great bodily injury.
4. Unreasonable physical constraint or prolonged or continual deprivation of food or water.
5. Sexual assault, which means any of the following:
 - a. Section 243.4 P.C. - Sexual Battery as defined.
 - b. Section 261 P.C. - Rape as defined.
 - c. Section 264.1 P.C. - Rape, acting in concert, as defined.
 - d. Section 285 P.C. - Incest as defined.
 - e. Section 286 P.C. - Sodomy as defined.
 - f. Section 288a P.C. - Oral copulation as defined.
 - g. Section 289 P.C. - Penetration of a genital or anal opening by a foreign object as defined.
6. "Neglect" means the negligent failure of any person having the care or custody of an elder or a dependent adult to exercise the degree of care, which a reasonable person in like position would exercise. Neglect includes, but is not limited to all of the following:
 - a. Failure to assist in personal hygiene or in the provision of food, clothing or shelter.
 - b. Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer along in lieu of medical treatment.
 - c. Failure to protect from health and safety hazards.
 - d. Failure to prevent malnutrition.
7. "Abandonment" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.
8. Fiduciary abuse: A situation in which any person, who has the care or custody of, or who stands in a position of trust to, an elder or appropriates their money or property, to any use or purpose not in the due and lawful execution of his or her trust.
9. Abuse of an elder or a dependent adult: The physical abuse, neglect, intimidation, cruel punishment, fiduciary abuse, abandonment, or other treatment with resulting physical harm or pain or mental suffering, or the deprivation by a care custodian of goods or services, which are necessary to avoid physical harm or mental suffering.

IV. PROCEDURE

- A. Department personnel investigating cases involving the abuse of elder or dependent adults will handle the case in one of the following ways:
 1. If all elements of a crime are clearly established, a report will be filed.

2. If at the end of an investigation, there is not a clear criminal violation, a Significant Incident Report (SIR) setting out the circumstances and the persons involved will be completed. The S.I.R. will be made attention "Family Crimes Unit" and routed to Investigations Division.

B. The Investigations Divisions, Family Crimes Unit:

1. Coordinates all active investigations involving the abuse of elder or dependent adults.
2. Coordinates and refers cases to the below listed agencies as required by Chapter 11 of the Welfare and Institutions Code.
 - a. Ombudsman Programs, which are responsible to receive and investigate reports of alleged adult abuse in the following long-term care facilities:
 - (1) Skilled Nursing Facilities (SNF's)
 - (2) Swing beds in General Acute Care Hospitals
 - (3) District Part SNF's in General Acute Care Hospitals
 - (4) Intermediate Care Facilities (ICF's)
 - (5) IFC/Developmentally Disabled (DD) Habilitative
 - (6) Adult Day Health Care Facilities (ADHC's)
 - (7) Adult Residential Facilities (ARF's)
 - (8) Residential Care Facilities for Elderly (RFCE's)
 - b. County Adult Protective Services Agencies, are responsible to receive and investigate reports of alleged adult abuse in all community settings including the following:
 - (1) Private residences
 - (2) Adult or Social Day Care Programs
 - (3) Independent living centers
 - (4) Sheltered workshops
 - (5) Community Clinics
 - (6) General Acute Care Hospitals
 - c. Department of Health Services-Licensing Agencies, (Community Care Licensing, Licensing and Certification, Health Practitioner Licensing Agencies) are responsible to receive and investigate the following:
 - (1) Licensed facilities
 - (2) Incidents perpetrated by Health Practitioners