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NAPA COUNTY CIVIL GRAND JURY 2023-2024

A Tradition of Stewardship
A Commitment to Service



CONSOLIDATED FINAL REPORT

Consolidated Final Report
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Third Row: Cheri Stanley, Cheryl Christoffers, Deborah McGrath, Jeffrey Johnson
Second Row: Vic Connell, Philip Pyrce, Hon. Scott R.L. Young, Lee Philipson, Patrick Muleady
Front Row: Robert Haines, Judith Speed, Sheryl Bartholomay, Tammy Smith, Linda Morin,
Linda Pidgeon

2023-2024 Napa County Civil Grand Jury Membership Roster

Sheryl Bartholomay	Napa
Cheryl Christoffers	Napa
Vic Connell (Pro Tem)	Napa
James Ehrman	Napa
Robert Haines (Sec)	Napa
Conrad Hewitt	Napa
Jeffrey Johnson	Yountville
Deborah McGrath	Napa
Linda Morin	Napa
Patrick Muleady	Napa
James Peifer	Napa
Lee Philipson	St. Helena
Linda Pidgeon	Napa
Philip Pyrce	Napa
Judith Speed	Napa
Tammy Smith (Foreperson)	Napa
Cheri Stanley	Napa
Dan Woodard	Napa



County of Napa Civil Grand Jury
1754 Second Street, Suite D
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Serving Napa County & Its Citizens Since Statehood

June 30, 2024

To the Citizens of Napa County, The Hon. Cynthia P. Smith, Presiding Judge, and The Hon. Scott R. L. Young, Judicial Liaison:

From the beginning of its statehood, the Constitution of the State of California has required each county to annually form a body composed of citizens to investigate or inquire into county matters of civil concern, including the performance of the duties of the agencies subject to investigation.

The primary function of the Civil Grand Jury is to act as a watchdog of local government; to ensure that the county is being governed honestly and efficiently and that county monies are being handled judiciously. Each civil grand jury is charged and sworn to investigate or inquire into matters of civil concern within its county.

This watchdog function does not end with investigating and reporting. The Grand Jury must also state what it has found and make realistic recommendations about how to improve the way things are done.

The final consolidated report that follows is the product of the 2023-2024 Napa County Grand Jury's investigation and analysis of the performance of the duties of agencies that are part of the government of Napa County.

The Jury considered numerous topics of concern to the citizenry including reviewing a number of complaints submitted by individual citizens. The Jury conducted over 100 interviews and reviewed thousands of pages of documents in the course of its term. Among all these possibilities, the Jury chose, by supermajority vote, to investigate the topics that you see in this report.

During the course of its term, the individuals who served on this Jury came together to work in a very professional way to produce the reports. As the foreperson, I could not have asked for a more collegial and collaborative team.

The Jury hopes that these reports will raise citizen awareness of these particular matters of civil concern and stimulate positive change within the agencies mentioned in the reports.

On behalf of this Jury, it has been a great honor to serve at the pleasure of the Superior Court of Napa County Court on behalf of the citizens of Napa County.

Respectfully submitted,

Tammy M. Smith, Foreperson

2023-2024 Grand Jury

Acknowledgements

The 2023-2024 Napa County Civil Grand Jury gratefully acknowledges the following individuals for their assistance to and support of the Grand Jury as it did its work to produce the reports that follow.

- Hon. Scott R. L. Young, Judicial Liaison, Napa County Superior Court
- Silva Darbinian, Chief Deputy County Counsel, Napa County
- Bob Fleshman, Chief Executive Officer, Napa County Superior Court
- Heidi Van de Ryt, Court Executive Assistant, Napa County Superior Court
- Allison Haley, Napa County District Attorney
- Oscar Ortiz, Napa County Sheriff
- Tracy Schulze, Napa County Auditor-Controller
- Jennifer Gonzales, Chief, Napa Police Department
- Daniel Sanchez, Senior Management Analyst, Napa County
- Jon Gjestvang, Chief Information Officer, Napa County
- Alice Danner, Staff Services Analyst, Napa County
- The Peter and Vernice Gasser Foundation, Nancy Watt, Chief Executive Officer
- Mitch Wippen, Chief Operations Officer, The Gasser Foundation
- Napa Chapter, California Civil Grand Jury Association
- Dan Evans, Editor, Napa Valley Register
- Laura Gregory, photographer, Grand Jury group photo
- Maggy Walton and Napa Printing

In Recognition

The 2023-2024 Napa County Civil Grand Jury wishes to acknowledge the generosity of The Peter and Vernice Gasser Foundation for the use of their executive Board Room for all weekly Grand Jury panel meetings. The Napa County Civil Grand Jury has used the executive Board Room at the Gasser Foundation building on Soscol Avenue for many years without any cost to the County. The Gasser's unconditional generosity speaks highly of their commitment to community service.



Photo courtesy of 2022-2023 Grand Jury Member Joe George



A Tradition of Stewardship
A Commitment to Service

NAPA COUNTY GRAND JURY 2023-2024

April 24, 2024

FINAL REPORT

Raising Awareness of Elder Abuse in Napa County

SUMMARY

If you live in Napa and you are not an elder, you probably know someone who is. The number of older Napers continues to grow. By 2030, one in three residents of Napa County will be over 60 years of age. As the number of elders increases, so does the need for additional elder care services and the potential for more elder abuse. Napa County needs an increased awareness and additional resources to reduce the incidence of elder abuse.

Elder Abuse is defined as an intentional or negligent act by any person that causes harm or a serious risk of harm to an adult over the age of 60 years. The prevailing perception is that elder abuse is physical, but self-neglect is a common and often unrecognized form of abuse, as are financial scams that prey on the vulnerability of elders. The reporting of elder abuse is a civic duty. For some in the community—professionals in financial institutions, health practitioners, and clergy, among others—the reporting is mandated by law.

In Napa County, Health and Human Services Comprehensive Services for Older Adults (HHSA CSOA) is responsible for providing services and mitigating elder abuse for elderly Napers not living in inpatient (generally nursing homes) facilities. Additionally, there are several nonprofit organizations in Napa County that work in concert with HHSA and focus on providing needed services to the elderly. Many like-minded Napers work and volunteer to bring these services to the elderly.

The elderly who are no longer able to safely care for themselves are often cared for in inpatient care facilities. Inspections and licensing of inpatient facilities fall under the jurisdiction of the State. Locally, the Ombudsman's office, staffed primarily by volunteers, oversees, and advocates for the inpatient residents.

The Jury heard many concerns about the quality of care in privately operated inpatient facilities. However, the County has limited power to intervene. The Jury believes there may be opportunity for greater involvement and potentially a protective presence by the local nonprofits in inpatient facilities.

Most professionals involved in elder abuse believe that all manners of elder abuse are under-reported. More public awareness and community involvement are needed to protect our elders.

The Jury reviewed local Community Partner nonprofit organizations providing vital services to the disabled, elderly and those in need. The Jury found their contributions to be extremely valuable to the community.

The Jury found that while numerous services are available to the elders, their broad scope and complexity make it difficult for individuals to find the resources they need. As a result, the Jury

provided seven key recommendations, including the directive to develop a “Healthy Aging Guide” for the elderly, their families and caregivers.

GLOSSARY

(HHSA) Napa County Health and Human Services Agency

(APS) Adult Protective Services

(CSOA) Comprehensive Services for Older Adults

(N/SAAA) Napa/Solano Area Agency on Aging

(NOAA) Napa County Older Adults Assessment

(LTCOP) Napa County Long Term Care Ombudsman Program

(IHSS) Napa County In-Home Support Services

(LTSS) Long-Term Services and Supports, a Subcommittee of California’s Master Plan for Aging

BACKGROUND

According to the 2022 US Census, just over one in four (28%) of Napa County residents are 60 plus years old. By 2030, one in three (33%) residents of Napa County will be over 60 years of age.

California has made elder abuse a priority. In 2019, Governor Gavin Newsom signed Executive Order N-14-19 calling for the development of the California Master Plan for Aging. After an extensive effort, this plan was launched in 2020. The plan calls for “Five Audacious Goals.” One of these goals is “Inclusion & Equity, Not Isolation.” There are six strategies for achieving this goal including “Protection from Abuse, Neglect & Exploitation.”

Data from the California Department of Social Services, Napa County Health and Human Services Administration (HHSA) indicates approximately 160 cases per month. Some of these are carried forward from previous months, some are new cases, and some are closed. Napa County HHSA 2022 Annual Report shows 1079 cases of elder and dependent care abuse cases were reported and 971 cases were confirmed. This data excludes abuse in inpatient care facilities (generally nursing homes) where Napa County has no regulatory oversight. These cases are reported to the Ombudsman’s office and investigated at the state level.

Inpatient care facilities are regulated by the state. The Jury has limited jurisdiction to investigate the state’s regulation of inpatient care facilities. The Jury learned of many instances of less-than-optimal care in these facilities and a system of state oversight that is not working. People with a loved one in an inpatient facility believed the only way they could ensure quality care was a frequent physical presence. The Jury believes there is an opportunity for one of the nonprofits serving Napa County to have volunteers visit and build connections with individuals in inpatient care facilities. The visits could be particularly helpful to individuals who don’t have

enough presence of family and friends to monitor their care. The Jury proposes a nonprofit serving Napa County establish an alliance with inpatient care facilities to develop a voluntary “Open Door Program” that allows visitations. Participation in the program might offer patients and loved ones assurance of the quality of the care being provided.

The Jury experienced a high level of frustration resulting from its lack of jurisdiction over inpatient care facilities. A preliminary inquiry indicated significant quality-of-care shortfalls.

Based on jury interviews, the inpatient quality of care issue is not just a County of Napa problem but a systemic problem at the state level. The state oversight of these facilities is not working. While the Jury has no authority, the Jury requests that the Little Hoover Commission investigate state oversight of inpatient care facilities with the objective of improving the quality of care in these facilities. If the Little Hoover Commission is unwilling to take on this issue, the Jury requests that Mark Ghaly, California Health and Human Services Secretary, in his role as the Leader of California’s Master Plan on Aging, form a working group to investigate this issue and develop a comprehensive plan to improve the statewide quality of inpatient care.

Please see the appendix for a list of organizations in Napa County offering services to the elderly.

Elder abuse is believed to be significantly under reported. Often victims of elder abuse are reluctant to report abuse because they are embarrassed or fear that they will lose their independence. Some may be too isolated to report abuse or may be too reliant on their abuser to risk intervention. Estimates run as high as one in ten elderly or dependent care adults will be abused in any given year.

The 2022-24 Napa County Older Adult Assessment (NOAA), a comprehensive large sample survey, indicated 12% of older adults reported they were a victim of a fraud or scam and 8% reported they were a victim of emotional abuse or a crime.

Dependent adults fall under the same regulations and protections as elders. A dependent adult is someone 18 years or older with certain mental or physical disabilities that keep them from being able to perform typical activities or protect themselves. In this report, the term elder adult includes dependent adults.

The Jury conducted this investigation to raise awareness and identify opportunities for mitigating the incidence of Elder Abuse.

METHODOLOGY

This Report is based on interviews and an extensive review of state and local documents.

Interviews conducted include:

- Napa County Health and Human Services (4 interviews)
- Napa Ombudsman’s Office (2 interviews)
- Napa County Nonprofits (4 interviews)
- Law Enforcement and District Attorney’s Office (3 interviews)
- Medical Personnel associated with inpatient care (1 interview)

Documents reviewed include:

- Napa County Older Adult Assessment - A Comprehensive large sample survey conducted at the request of the Napa County Board of Supervisors the Napa County Commission on Aging, Napa County Health and Human Services Agency, Napa/Solano Area Agency on Aging and the Napa County Health Aging Population Initiative (HAPI). <https://communityhealthnapavalley.org/wp-content/uploads/2023/12/NOAA-FINAL-Report-for-Public-Distrib-1.23.24.pdf>
- Napa County Health and Human Services Agency (HHS) 2022 and 2023 Annual Report as well as the Comprehensive Services for Older Adults 2021 - 2023 Strategic Plan.
- Napa County Aging and Disability Resource Guide
- California Penal Code: Elder, Disabled Adults - PEN § 368
- California Department of Social Services “SOC 242 - Adult Protective Services and County Block Grant Monthly Statistical Report” <https://www.cdss.ca.gov/inforesources/research-and-data/disability-adult-programs-data-tables/soc-242>
- California Department of Justice Division of Medi-Cal Fraud and Elder Abuse training materials “Your Legal Duty...Reporting Elder and Dependent Adult Abuse”
- California Master Plan on Aging <https://mpa.aging.ca.gov/>
- University of Southern California Center for Elder Justice <https://eldermistreatment.usc.edu/national-center-on-elder-abuse/>
- US Census Bureau

DISCUSSION

The Jury explored the work and services of the local nonprofit organizations, as well as the contributions of individuals in the Ombudsman’s office. We wish to commend their valuable contribution to the community and acknowledge the dedication of those who work diligently and volunteer so generously.

Definition of Elder Abuse

Elder abuse is defined as physical abuse, neglect, emotional/mental abuse, and financial abuse.

Physical abuse is physical force that results in injury or death, commonly recognized as: hitting, kicking, pinching, grabbing, burning, misuse of medicines (over or under-utilization), punching, choking, slapping, twisting, force-feeding, misuse of chemicals or physical restraints.

Elder neglect is the failure of a caregiver or responsible other to provide basic necessities, including nutrition, shelter, hygiene, clothing, necessary medical care and safety. If the elderly is neglected and there is no formal or presumed caregiver, then it is self-neglect.

Self-neglect is when an elderly person is unable to safely care for themselves at home and no caregiver has been identified.

Emotional abuse is intentionally causing mental anguish by threatening, terrorizing, humiliating, isolating, or demeaning a person.

Financial abuse is using an older adult's money or assets contrary to their wishes, needs, or best interests, or for the abuser's personal gain. Financial abuse includes undue influence when a person of trust manipulates and takes advantage of a vulnerable elder to gain control of money, property, or life either directly or through power of attorney, trust, marriage, adoption, or inheritance.

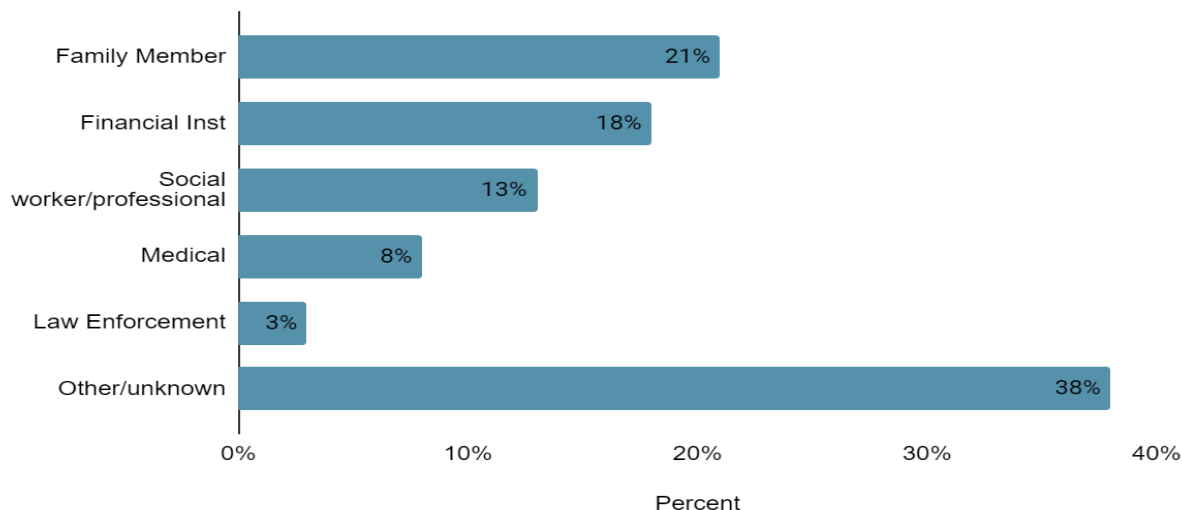
Elder abuse is defined in California Penal Code § 368.

The Reporting of Elder Abuse

Who Reports Elder Abuse?

In the NOAA survey respondents who said they experienced abuse or a crime reported that they told family members (69%), law enforcement (36%), a counselor, doctor or spiritual advisor (12%). Only 4% of respondents reported directly using Napa County APS.

Elder abuse is typically reported to APS by a family member or a "Mandatory Reporter."



Source: California Department of Social Services. The other/unknown percentage is most likely a combination of after-hours reporting, anonymous reporting, or cross reporting.

Who is a Mandatory Reporter?

California Welfare and Institutions Code § 15630 defines a mandatory reporter as a person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, a health practitioner, clergy member, employee of a county adult protective services agency, or a local law enforcement agency. A person in their professional capacity or within the scope of their employment, including those in a financial institution, who have observed or have knowledge of an incident that reasonably appears to be abuse are also mandatory reporters. Failure to report an abuse is a misdemeanor.

Mandatory reporters who are close to the front line of abuse (social workers, ER doctors, etc.) know how to recognize abuse when they see it and know how to report abuse. Those a bit further from the front line may be unable to recognize abuse and unsure how to report it. The Jury found no person or entity accountable for informing these mandatory reporters of their responsibility to report abuse or how to report if they suspect it. Recent lawsuits filed in Los Angeles and San Mateo Counties accused major banking institutions of failure to protect elders in losses of more than \$2.2 million.

Elder Abuse is reported to Napa County Health and Human Services or law enforcement. If, after a preliminary investigation HHSA believes a crime has been committed, they will cross report to law enforcement. Generally, law enforcement will cross report to HHSA.

How is Elder Abuse Reported?

In Napa County, elder abuse is reported to Napa County Health and Human Services, Adult Protective Services (HHSA APS). Reports are made over the phone on a 24-hour hotline (707-253-4398 or 888-619-6913) or on-line. Elder abuse may also be reported to law enforcement. Law enforcement will generally cross report to HHSA APS if the abuse takes place in a non-inpatient facility. If the abuse takes place in an inpatient facility, law enforcement would generally cross report to the Ombudsman. If abuse appears to be of a criminal nature, APS or the Ombudsman would cross report to law enforcement.

When elder abuse is reported, the priority is to ensure the safety of the individual. The nature, the severity and the risk to the individual's safety dictate the speed of response.

When APS starts an abuse investigation, they first attempt to verify the abuse. If the abuse is verified, a social worker would marshal the appropriate resources to mitigate the abuse and arrange for the appropriate resources to yield a safe environment. Most (68%) elder abuse cases reported to HHSA APS are classified as self-neglect. This means the individual does not have the resources to ensure their own safety and no caregiver has been identified.

A Public Guardian/Conservator may be appointed if an individual is unable to provide their own basic food, clothing, and shelter needs. Additionally, if an individual is unable to manage their personal financial affairs or is susceptible to fraud or undue influence, a Public Guardian/Conservator may be appointed when there is no other trusted person available to act as conservator.

A request for a conservatorship can be initiated by Adult Protective Services or by a third party. Third parties include friends, family members, physicians, bankers, and law enforcement. An independent investigation is conducted to determine if conservatorship is necessary or if there are appropriate alternative services available.

Criminal and Financial Scams

A relatively small percentage of elder abuse cases are severe enough to be considered criminal. Many of these are financial elder abuse. For a criminal case to be successfully prosecuted, law enforcement must have sufficient evidence that a crime has been committed and the perpetrator can be brought to justice. In many financial scams, the perpetrator can be difficult to track down, especially if the scam has taken place electronically and the perpetrator is not located in the United States.

Financial fraud and scams are a major elder abuse issue for Napa County. As noted earlier 12% of older Napa County citizens report being the victim of a fraud or scam. Financial elder abuse