

## **FINAL REPORT**

### **CASE #0501 SAN JOAQUIN COUNTY ADULT PROTECTIVE SERVICES**

#### **REASON FOR INVESTIGATION:**

The San Joaquin County 2001-2002 Civil Grand Jury (SJCCGJ) received a formal complaint from the San Joaquin County Criminal Grand Jury requesting that SJCCGJ initiate an investigation into the practices and power of:

- Adult Protective Services (APS)
- In-Home Support Services (IHSS)
- Assisted Care Inc., (ACI) contract services for dependent adults.

#### **BACKGROUND:**

The San Joaquin County Criminal Grand Jury alleged that HSA has lacked in oversight and training of those paid to take care of the elderly. Upon completion of the investigation, criminal charges were filed against the primary care giver as a result of the premature death of a dependent adult. The Department of Aging has direct oversight of Adult Services provided by Human Service Agency (HSA). This includes the divisions of APS, IHSS and the current contract with ACI. In-Home Support Services pays care givers to tend to the needs of qualified recipients, including the elderly.

The IHSS caseload averages 4,100 clients each month. ACI provides in-home services for approximately 625 individuals who do not have an independent care giver available. The costs of these services annually are approximately \$18.7 million for independent care givers and \$2.3 million for services provided by ACI care givers. ACI's contract is for approximately 280,000 billable hours per year.

APS is a division of HSA that investigates allegations of abuse or neglect of elderly in this county.

#### **METHOD OF INVESTIGATION:**

#### **INTERVIEWS CONDUCTED:**

- Division Chief Program Manager, Department of Aging Adult Services
- Director of Human Services Agency
- Former Supervisor for Assisted Care
- Sr. Vice-president for Assisted Care

- Unit Chief for Adult Protective Services
- Deputy Director of Adult Services
- The two former care givers for the deceased
- Director of San Joaquin County Mental Health Services

**MATERIAL REVIEWED:**

- Transcripts and evidence presented to the San Joaquin County Criminal Grand Jury
- Assisted Care Inc., contract with San Joaquin County
- Assisted Care Inc., employee manual
- HSA Programmatic and Fiscal Monitoring Report on ACI
- Adult Abuse Protocol for San Joaquin County Law Enforcement Agencies
- Welfare and Institution Code Section '15630 B Mandated Reporters
- APS Case Narrative and Conservators List
- APS Case File of the Deceased
- San Joaquin County Mental Health Policy and Procedures, RE: Conservatorship

**FINDINGS:**

Under Welfare and Institution Code Section '15630, the caregivers are mandated reporters. Per the ACI contract all caregivers are required to be trained on how to identify possible neglect and abuse as well as the protocol for reporting.

- Per the Programmatic and Fiscal Monitoring Report provided by HSA, ACI did not provide any documentation of providing an orientation on how to spot signs of elder abuse to the caregivers.
- The two caregivers that were employed with ACI to provide services to the deceased were not aware that they were mandated reporters, nor knew of any protocol to report suspected neglect or abuse.
- Only after the premature death of the woman were the caregivers provided with a flyer accompanied with their paycheck informing them of their responsibility as mandated reporters.
- ACI had full knowledge that while the caregivers were in the home of the deceased, the primary caregiver refused to allow them access to perform their assigned duties.

Per the Programmatic Monitoring Report provided by HSA, ACI was provided with corrective actions on 12 issues, which included:

- ACI failed provide documentation that an Aorientation on how to spot signs of elder abuse@ was ever given, as required in the contract
- ACI failed to provide documentation of Askill development training@ as required in the contact.
- ACI failed to provide documentation of Aassessment of the skill level of each employee and maintain records@ as required in the contact.

ACI has provided a Notice of Intent to terminate their contract with San Joaquin County, effective June 30, 2002. HSA will be presenting the Board of Supervisors with a request to enter into negotiations with the second, and only other qualified bidder from the Invitation for Bid to assume services for the remainder of the contract period July 2, 2002 through September 30, 2002.

Based on reports by St. Joseph=s Hospital medical staff for the deceased, APS submitted a referral to the San Joaquin County Public Conservator/Guardian Office on 12/29/99 to appoint a public conservator.

- The Program Manager for HSA stated that the referral was verbally denied by a Deputy Public Guardian. The APS client file documented on 1/12/00, a conversation that the Public Conservator=s office declined to undertake an investigation and referred APS to the District Attorney=s office. The file lacks written documentation of the denial by the Conservator=s office.
- The Program Manager for HSA stated that they did not have any recourse because power of attorney had already been granted.
- APS failed to take any further steps to challenge the decision made by the San Joaquin County Public Conservator/Guardian which resulted in further neglect.

San Joaquin County Public Conservator/Guardian responded to SJCCGJ with a letter from the Public Conservator, based on the recollection of the Deputy Public Guardian stating that the deceased was of sound mind, although all medical records reviewed by the committee indicated that the deceased had dementia.

- The Conservators Office has no documentation of the referral or of an investigation
- The Conservators Office failed to conduct and document an adequate investigation by a qualified personnel in order to evaluate the competency of the deceased and document the finding, which is in direct violation of their policy and procedures.

There is no written policy or protocol in place between San Joaquin County Public Conservator/Guardian and APS regarding elder abuse cases where the possible need for conservatorship has been identified.

The APS & IHSS workers manually track the follow up of clients, which in all probability may leave room for cases to fall through the cracks. As a result of the unfortunate death of one of their clients, the Department of Aging has entered into a joint effort with APS, IHSS and ACI to meet weekly to discuss and identify Ared flag cases.@ These are cases of potential problems such as needs and/or abuse.

Prior to her death this case was referred to the Multi Disciplinary Task Force (MDT). This task force is comprised of the Public Conservators Office, Mental Health Older Adult Services, and the Mental Health Mobile Evaluation Team. The task force meets to discuss potential abuse cases and the assignment or referral to the agency or group best able to resolve the issues of the Ared flag cases.@ No additional documentation was found as to the result of this referral.

### **RECOMMENDATIONS:**

1. The San Joaquin County Board of Supervisors change the future bidding process to a Request for Proposal as opposed to the current Invitation for Bid. This will allow for the contract to be awarded on quality service rather than Alowest cost.
2. HSA provide specific elements for mandatory training to the contracted agency for the care givers including but not limited to:
  - o Identifying and Reporting Elder Abuse
  - o CPR
  - o First Aid
3. HSA conduct quarterly monitoring of the contracted agency to ensure that both the programmatic as well as fiscal elements of the contract met compliance.
4. APS develop and implement a formal process for requesting conservatorship in cases of abuse and neglect.
5. San Joaquin County Public Conservator/Guardian develop and implement a formal procedure for referrals from APS when requesting conservatorship.
6. San Joaquin County Public Conservator/Guardian maintain a log of all referrals with documentation via a computer database.
7. San Joaquin County Public Conservator/Guardian and APS develop a memorandum of understanding governing the procedure for referrals between the two agencies, which includes an appeal process in relationship to the handling of elder abuse cases where the possible need for conservatorship has been identified.

### **RESPONSE REQUIRED:**

Pursuant to Section 933.05 of the Penal Code:

The Human Services Agency, Department of Aging and the San Joaquin County Public Conservator/Guardian shall report to the Presiding Judge of the San Joaquin Superior Court, in writing and within 90 days of publication of this report, the response indicates one of the following.

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasonstherefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of the analysis and a time frame not to exceed (6) six months.
- d. The recommendation will not be implemented, with an explanation therefore.