



CEDAR

COALITION FOR ELDER & DISABILITY RIGHTS

August 18, 2021

Senator Robert Casey
393 Russel Senate Office Building
Washington, DC 20510

Re: Request legislative review of DOJ failure to investigate civil rights complaints

Senator Casey,

We applaud your efforts to obtain information on the number and scope of guardianships across the country. However, those steps will not bring relief to persons who are denied due process in court, denied civil rights by their guardians, and denied protection of the laws by state and local law enforcement. Our comments below are limited to violations in California.

NO DUE PROCESS OF LAW IN PROBATE COURT

California's probate courts often do not follow California Probate Code. Due process is often denied. Alleged incapacitated persons are stripped of civil rights in conservatorship proceedings lasting just a few minutes. Often, the respondent is not allowed to attend the hearing. Court appointed counsel, if present, often does not represent the rights or wishes of the respondent. Court appointed counsel are uniquely positioned to inflame conflict, thus driving billable hours for themselves and all attorneys involved in a case.

NO PROTECTION OF THE LAWS – LOCAL LAW ENFORCEMENT

California's law enforcement often does not provide protection of the laws for seniors and persons with disabilities. Law enforcement is extremely reticent to investigate abuse by conservators or their agents.

In 2015, advocates reported that a young man with developmental disabilities was imprisoned and isolated since 2010. Santa Barbara County Sheriff declined to investigate, referring the crimes social services. (See attached letter from Sheriff Bill Brown.)

From 2014 to 2020, advocates attempted to report that an elderly woman was held prisoner and isolated since 2012. Oakland Police Department officers consistently refused to accept reports of the crimes. In 2020, Internal Affairs wrote that Oakland Police department does not accept elder abuse reports. (See attached letter from Lt. Clay Burch.)

For two decades in Riverside County, advocates reported abuse in a group home for children and adults with severe developmental disabilities. In 2020, Riverside County Sheriff's Department still relied on the attached 1987 elder abuse policy, a policy that does not comply with requirements in [Penal Code 368.5](#). In 2019, a 17-year-old girl died in the group home. In August

2021, the owners/operators of the group home were arrested for murder and for years of abuse, including years of sexually abusing of residents.

<https://rivcoda.org/community-info/news-media-archives/criminal-grand-jury-indicts-owner-operators-of-care-home-for-murder-and-endangerment>

NO PROTECTION OF THE LAWS – CALIFORNIA DEPARTMENT OF JUSTICE

In 2011, advocates reported that an elderly woman was kidnapped from her home, held prisoner, and isolated for over a year. A San Bernardino County Sheriff's Deputy aided the kidnappers. Without accepting any supporting documents, California DOJ responded that *none of their activities were criminal in nature*. (See 2011 letter from Investigative Auditor Yolanda Mills.) In 2013, advocates provided DOJ with evidence that the same woman was sexually assaulted in 2012 by a male caregiver, and the care facility management covered up the crimes. Supervising Deputy Attorney General Vincent DiCarlo responded that the 2013 sexual abuse complaint was investigated in 2011, and the investigation would not be re-opened.

NO PROTECTION OF THE LAWS – US DEPARTMENT OF JUSTICE

For years, advocates submitted civil rights complaints to US Department of Justice (DOJ). There has been no response to those complaints.

REQUESTS

We recognize the federal government has no authority over state and local entities. We recognize the legislative branch has no authority over law enforcement, which resides in the executive branch.

The legislature is positioned to track US DOJ investigations and to report the results of those investigations. We request legislative staff be tasked with the following duties.

1. Investigate the status of 2015 - 2021 civil rights complaints submitted to US DOJ in cases that involve conservatorship or guardianship.
2. Track the status of new civil rights complaints submitted to US DOJ in cases that involve conservatorship or guardianship.
3. Report to the legislature and to the public within twelve months.

Respectfully,
Linda Kincaid, MPH

ATTACHMENTS

2015 Letter from Santa Barbara County Sheriff Bill Brown
2020 Letter from Oakland Police Department Lt. Clay Burch
1987 Elder Abuse Policy from Riverside County Sheriff's Department
2011 Letter from California DOJ Investigative Auditor Yolanda Mills



Office of the Sheriff
SANTA BARBARA COUNTY

STATIONS

Buellton
140 W. Highway 246
Buellton, CA 93427
Phone (805) 686-8150

Carpinteria
5775 Carpinteria Avenue
Carpinteria, CA 93013
Phone (805) 684-4561

Isla Vista
6504 Trigo Road
Isla Vista, CA 93117
Phone (805) 681-4179

Lompoc
3500 Harris Grade Road
Lompoc, CA 93436
Phone (805) 737-7737

New Cuyama
70 Newsome Street
New Cuyama, CA 93254
Phone (661) 766-2310

Santa Maria
812-A W. Foster Road
Santa Maria, CA 93455
Phone (805) 934-6150

Solvang
1745 Mission Drive
Solvang, CA 93463
Phone (805) 686-5000

Sheriff - Coroner Office
66 S. San Antonio Road
Santa Barbara, CA 93110
Phone (805) 681-4145

Main Jail
4436 Calle Real
Santa Barbara, CA 93110
Phone (805) 681-4260

**COURT SERVICES
CIVIL OFFICES**

Santa Barbara
1105 Santa Barbara Street
P.O. Box 690
Santa Barbara, CA 93102
Phone (805) 568-2900

Santa Maria
312 E. Cook Street, "O"
P.O. Box 5049
Santa Maria, CA 93456
Phone (805) 346-7430

HEADQUARTERS

P.O. Box 6427 • 4434 Calle Real • Santa Barbara, California 93160
Phone (805) 681-4100 • Fax: (805) 681-4322
www.sbsheriff.org

BILL BROWN
Sheriff-Coroner

BERNARD MELEKIAN
Undersheriff

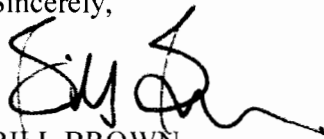
November 15, 2017

CEDAR
Attention: Linda Kincaid
20255 Glasgow Drive
Saratoga CA, 95070

Dear Ms. Kincaid,

I received your complaint and supporting documents of October 30th, regarding your concerns with the treatment of William Ente by Tri-Counties Regional Center. All of the information you provided has been forwarded to Santa Barbara County Department of Social Services - Adult Protective Services, which is the county agency that is responsible for investigating these type of complaints.

Sincerely,



BILL BROWN
Sheriff-Coroner

CITY OF OAKLAND



INTERNAL AFFAIRS DIVISION • 250 FRANK H. OGAWA PLAZA, SUITE C • OAKLAND, CALIFORNIA 94612-2010

Police Department

Telephone Device for the Deaf (510) 238-7629
Administrative Section (510) 238-3160
Investigation Section (510) 238-6155

May 19, 2020

Linda Kincaid
20255 Glasgow Drive
Saratoga, CA 95070

RE: IAD File Number: 18-0786

Dear Linda Kincaid:


You initiated a complaint with the Oakland Police Department (OPD). An investigation into the allegations has been completed. The allegations and investigative findings are listed below:

Performance of Duty – General – Exonerated – The complainant is alleging that the officer refused to take a crime report about elder abuse. The investigation disclosed sufficient evidence to determine that the alleged conduct did occur, but was in accordance with law and with all OPD rules, regulations, or policies. A finding of “**Exonerated**” has been determined. The Internal Affairs Division has documented and worked toward resolving your complaint. The circumstances will be further reviewed in order to improve our future service to the community.

The Department apologizes for any inconvenience this incident may have caused you. Should you have any questions regarding this matter, please telephone me at (510) 238-3161 on any weekday between 9:00 AM – 5:00 PM.

You may also file a complaint with the Community Police Review Agency. Their telephone number is (510) 238-3159.

Sincerely,


Clay Burch
Lieutenant of Police
Internal Affairs Division

Date 8/14/2020

CB:sb

Dept. Memo #87-077
May 28, 1987
Page 2

2. Contact with the reporting party:
 - a. The person taking the report will write a "narrative" report using Forms A & C.
 - b. The report must include:
 - (1) Reporting party
 - (2) Victim
 - (3) Type of abuse and extent of injuries
 - (4) Family or contact person address and phone number
 - c. The reporting party will be given the appropriate department business address to mail any forthcoming adult protective services reports.
3. Status of Initial Reports:
 - a. Reports will be Open/Continued for follow-up
 - b. Follow-up personnel will determine the extent of investigation required and disposition of the case.

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE



BUREAU OF MEDI-CAL FRAUD AND ELDER ABUSE
3950 PARAMOUNT BLVD., SUITE 220
LAKEWOOD, CA 90712-4144
Telephone: (562) 425-9761
Facsimile: (562) 425-9098
E-Mail: yolanda.mills@doj.ca.gov

June 15, 2011

J. Terrence Moynihan
Attorney for Mindy Martin
6529 Riverside Avenue, Suite 132
Riverside, CA 92506
(951) 781-1960 ext 205
(951) 682-5348 Fax

RE: Martin, Mindy Marie
RV2011100146

Dear Mr. Moynihan:

Our office has investigated the alleged fiscal elder abuse against Carol Jean Hahn. We have now concluded our investigation and will be closing our case. It appears that the individuals involved were attempting to act in the best interest of Ms. Hahn and that none of their activities were criminal in nature.

Should you have any questions or concerns, please contact me at the above referenced number or Supervising Deputy Attorney General Sue Melton Bartholomew at 818-295-2680.

Sincerely,

Yolanda Mills
Investigative Auditor
Bureau of Medi-Cal Fraud and Elder Abuse

For KAMALA D. HARRIS
Attorney General