

CCoA

California Commission on Aging
... a citizens voice within government



TOWARD AN UPDATED BLUEPRINT:
A REPORT THAT COALESCES THE FINDINGS AND RECOMMENDATIONS FROM
BOTH THE 2010 AND 2013 ELDER JUSTICE SUMMITS.

September 26, 2013

A report to the Archstone Foundation

July 2014

Lisa Nerenberg, MSW, MPH and Carol Sewell, MAG; co-authors
Sandra Fitzpatrick, MA; Molly Davies, MSW; Lori Delagrammatikas, MSW; Terri Restelli-
Deits, MSW, contributors

TOWARD AN UPDATED BLUEPRINT:
A REPORT THAT COALESCES THE FINDINGS AND RECOMMENDATIONS FROM
BOTH THE 2010 AND 2013 ELDER JUSTICE SUMMITS.

Table of Contents

Introduction.....	3
Modernizing Adult Protective Services to Strengthen the Safety Net.....	5
Improving California’s Response to Elder Abuse in Institutional Settings.....	12
Mobilizing Caregivers to Prevent Abuse.....	14
Ensuring Justice: Examining the Legal System’s Role.....	19
Elder Justice for All: Access and Parity.....	30
Long Term Services and Supports.....	33
Appendix A	38
Appendix B	40

TOWARD AN UPDATED BLUEPRINT:
A REPORT THAT COALESCES THE FINDINGS AND RECOMMENDATIONS FROM
BOTH THE 2010 AND 2013 ELDER JUSTICE SUMMITS.

Introduction

In 2013, Archstone Foundation grant funds were used to support a second Statewide Elder Justice Policy Summit and follow-up activities by the California Commission on Aging (CCoA), California Elder Justice Coalition (CEJC), the County Welfare Directors Association of California, the California Long-Term Care Ombudsman Association and the California Area Agency on Aging Association. This report reviews the systems and environments in place leading up to the 2013 *From Practice to Policy: Setting the Course for Elder Justice Summit*, the recommendations developed by each of the Summit's topic breakout sessions, events that have taken place following the summit, as well as progress toward implementation of the summit recommendations.

During CEJC's first Summit, a foundation was established, laying out the basic principles of "elder justice" and its meaning for California practitioners and policy makers. That definition acknowledged the importance of having a robust long-term services and supports system that ensures that all seniors have access to services that maximize their autonomy and independence, including meals on wheels programs, in-home supportive services, services to assist caregivers, and access to the justice system.

The findings and recommendations from the 2010 Summit were compiled in the report *Improving California's Response to Elder Abuse, Neglect and Exploitation . A Blueprint*, produced by the California Elder Justice Workgroup (now CEJC) as an outgrowth of the Summit along with additional the work of Archstone Foundation Elder Abuse and Neglect Initiative grantees.

Shortly after the 2010 Summit, the federal Elder Justice Act was passed, setting the stage for development of a national structure that brings federal agencies together and urges state agencies to do the same. The Act required state agencies work together in seeking EJ funds, yet when the first grants were announced, the State of California was not equipped to provide the support and coordination that grant applicants needed to access funds.

California's recession resulted in erosion of the safety net and the realignment of such critical services as adult protective services (APS), mental health, and corrections, making it even harder to assure uniform response to cases of abuse and undermining progress toward building a cohesive state program. California's long term care system, renamed the "long term services & supports" (LTSS) system, has undergone fundamental changes in the past several years, placing enormous demands on community agencies and family caregivers, as well as transitioning frail elders and persons with disabilities into the unknown territory of Medi-Cal managed care.

California's systemic shortfalls are also evident in the policy framework that supports elder justice efforts. A 2013 cursory survey of elder justice legislation found 150 bills introduced since

1997, reflecting a piecemeal and scattered approach to addressing needed statutory change. The overwhelming majority of bills fails each year and, of those that pass, most offer only partial solutions or are never fully implemented. Policy reform, driven by media exposés, often results in quick fixes that don't last or address the root of the problem.

Given the scope of those concerns, each 2013 Summit breakout session was planned by experts from the given area of the elder abuse field. The session planners approached their task using a “bottom up approach” that drew upon solutions from the field that would shape policies to better serve victims of abuse. The model programs put forward during the Summit included California's elder courts, self-help legal clinics, financial abuse specialist (FAST) teams, fatality review teams, and forensics centers.

Many activities initiated in planning the 2013 Summit carried value beyond the event itself:

- The Protective Services Operations Committee of CWDA surveyed APS programs across the state, garnering responses from 56 counties on staffing, caseloads, training, infrastructure, data collection, among other topics. The information provides ongoing guidance for further improvements to the system.
- Courts were surveyed by legal session planners for innovative practices in elder abuse cases, as well as compiling laws and court decisions to guide their discussion, creating a useful tool for alternative approaches to handling these cases.
- A literature review was conducted in preparation for the session on access and parity, providing background and insight into the cultural distinctions to be addressed when responding to abuse in diverse communities.
- The caregiver session planners pulled together cutting edge research and promising practices that continues to guide the work of group members in their development of a universal assessment tool to help prevent abuse by family caregivers.

A priority recommendation coming out of the summit called for creation of a blue ribbon panel or special committee within the Legislature devoted to the study of elder abuse. A copy of the resolution (Appendix A) was delivered to each member of the Legislature and discussions regarding the need for this body continue with legislative leaders.

A final achievement from the 2013 Summit was the personal commitments made by the professionals in attendance. Modeled after the “Wall of Commitments” from the 2010 event, attendees' personal commitments to the fight against elder abuse are compiled and included at the back of this report. (Appendix)

Due to funding constraints that limited the time available for the 2013 Summit, it was not possible to address the full range of topics covered in the Blueprint. *Towards an Updated Blueprint* coalesces the findings and recommendations from the 2010 Summit and the environmental changes that followed with the recommendations from the six policy breakout sessions covered during the 2013 event. This report includes new developments and challenges in each policy area; promising practices and subsequent progress toward implementation of those recommendations and available resources.

MODERNIZING ADULT PROTECTIVE SERVICES TO STRENGTHEN THE SAFETY NET

Background

Adult Protective Services (APS) is a statewide, county-based program that investigates abuse, neglect, and self neglect of people over the age of 65 and dependent adults. It shares the duty to investigate with Long-Term Care Ombudsmen (Ombudsmen), who investigate abuse in long term care facilities, and law enforcement agencies, which investigate allegations of criminal conduct. APS workers provide 24-hour emergency services, assess risk, and connect clients to support services to help them meet their personal care needs while remaining in the least restrictive settings possible. APS services are voluntary (clients must consent to investigations and interventions) and free for anyone in need regardless of income. Statewide, APS receives as many as 10,000 reports of elder and dependent adult abuse every month, and reports are increasing every year.

APS programs were created under Title XX of the Social Security Act. Although APS receives no designated federal funding, most states, including California, opt to use some Social Services Block Grant funds to support APS and some counties contribute additional funds. Until recently, there was no federal agency charged with overseeing or supporting state programs. In California, the state Department of Social Services provides limited support and oversight. The California County Welfare Directors Association (CWDA) has provided additional direction to counties and statewide policy recommendations.

California's APS program has historically faced myriad challenges, ranging from underfunding, lack of leadership, and complex reporting laws, which have led to inconsistencies in how cases are responded to from county to county. Many of these problems were identified during CEJC's first elder justice summit in 2010 and by the Protective Services Operations Committee (PSOC) of the County Welfare Directors Association (CWDA). Following the 2010 Summit, a small group of advocates began meeting to develop a protocol to guide coordination among local entities that respond to abuse reports. The protocol has been implemented in multiple counties.

New Developments

Developments at the state and national since the first summit have created additional challenges and opportunities for APS:

- In 2011, APS was "realigned" as part of the 2011-2012 state budget agreement, transferring fiscal management of APS programs to local governments. The state, however, retained legal responsibility for ensuring that APS mandates are met and for carrying out an APS training program. Such key oversight functions as informing APS personnel about changes in state and federal policy, however, have fallen to counties.
- At the national level, new leadership for APS has emerged with the enactment of the Elder Justice Act in 2010 as part of the Patient Protection and Affordable Care Act. Although the EJA has not been funded to date, it calls for a national structure for APS and the creation of the Elder Justice Coordinating Council, which includes heads of federal departments and other government entities, to guide implementation. Kathy Greenlee, Assistant Secretary of Aging and Director of the Administration for Community Living (ACL), has assumed a leadership role in overseeing implementation of the EJA as chair of the Elder Justice Coordinating Council. Several projects have been

initiated. ACL, in partnership with HSS' Department of Planning and Evaluation and the Department of Justice (DoJ), has plans to design a national APS data collection system. In preparation, they are collecting information to help them assess the needs and infrastructure requirements necessary for APS agencies to report data to a national collection system and to identify a core set of case indicators on which APS agencies will report. Prior to implementing the system nationally, they will pilot the system at the state level. ACL also initiated a grant program to assist states explore APS innovations.

Challenges and Needs

- Currently, the California Department of Social Services (CDSS) has only 0.75 of a FTE (Full-time Employee) allocated to the management of APS on a statewide basis. As a result, CDSS is not able to carry out key state functions or respond to federal elder abuse initiatives that impact APS, including opportunities for federal funding and support. APS policies and procedures have not been updated since the 1990s and guidelines are out of date. The realignment of APS has led to further questions about the roles and responsibilities of the state vis-à-vis counties.
- Insufficient funding has forced APS programs to triage cases and establish narrow eligibility requirements to meet state mandates, which may have unintended and counterproductive consequences. For example, they may not be able to intervene until crises occur when earlier interventions could have circumvented irreparable harm or the need for more costly services. Counties also lack sufficient resources to address the needs of underserved groups such as rural seniors or to address diversity based on culture, ethnicity, sexual orientation, etc.
- APS programs lack statewide guidance for administrative management (e.g. staffing and caseload levels), resulting in variations in service provision across counties.
- Although APS data is collected on a statewide basis every month, the reliability and validity of this data is limited because counties do not use the same systems to track their data and the state does not provide oversight to ensure that data is consistent between counties. Very limited analysis of this data is carried out. The existing system is also cumbersome for users, with some counties using faxes to make monthly reports. Information is needed to guide planning, program development, and policy; identify resource needs; evaluate program success; track trends; contribute to understanding of elder abuse victims, abusers, and the circumstances surrounding abuse; track alleged perpetrators, and facilitate collaboration on cases that cross county lines.
- Public and professional awareness about APS and abuse reporting is low, leading to underreporting. Misconceptions about APS may discourage some from reporting. As a result, APS often finds out about elder abuse when elders are hospitalized or close to death. Better outreach is needed to encourage frontline responders and the public to report earlier.
- Lack of consistent and comprehensive statewide training for workers. In spite of the complexity of APS work, new APS workers do not systematically receive training, and on-going training for APS workers is not required federally or by the State. Regional APS training programs typically choose the training they want. The budget for statewide APS training has not increased over the past nine years, remaining static at 176,000 dollars. These funds are disbursed to regional training academies at academic institutions. Although the State retained responsibility for APS training under realignment, decisions

about content are made by the academies. Although region-specific training reflects local needs, there is no state oversight to ensure that it is consistent across regions or reflects state and national priorities. A standardized APS core curriculum has been developed but funds are not available to put them to use.

- Lack of incentives for social workers to pursue careers in APS. Compared to their counterparts in child protective services (CPS), APS workers have fewer job prospects and fewer opportunities for subsidized masters level education. In some counties, salaries for APS are lower than those for CPS workers.
- Lack of feedback mechanism for local APS program personnel to alert state policy makers about program needs and how programs are being impacted by developments like realignment and the Coordinated Care Initiative (CCI).
- Lack of coordination among reporting entities. The three primary entities charged with responding to reports of abuse (APS, Ombudsmen, and law enforcement) are further required to cross-report to ensure that cases are handled by the most appropriate agency, prevent duplication of effort, facilitate information-sharing and evidence collection, and protect victims. In some cases, the ongoing involvement of more than one agency is needed. Other agencies that have important roles to play include state and federal regulatory and law enforcement agencies, coroners and medical examiners, and providers of mental health services. Lack of coordination among these entities poses a threat to victim safety and impedes efforts to hold perpetrators accountable. Specific problems include:
 - The system is overly complex.
 - Lack of clarity about the type of information about clients and case outcomes that can be shared by APS, police, district attorneys, and referring agencies.
 - Reporting agencies, as well as mandated reporters, are often dissatisfied with the lack of feedback they receive after making reports and believe that it interferes with safety planning for victims.
 - Lack of protocols and procedures for cross reporting and referrals to law enforcement.
- Barriers to investigate financial abuse. APS workers face multiple barriers to collecting the information they need to substantiate and prevent financial abuse. Foremost among these are financial institutions' refusal to provide critical information about alleged victims' accounts when alleged victims are frail, bed-bound, or suffering from advanced dementia that prevent them from advocating for themselves. Some require court orders or subpoenas to release information. This reportedly has occurred even when the institutions themselves, have made referrals leading to the investigations. This creates a "catch 22" situation, since APS investigators typically lack sufficient information to for court order.
- Lack of referral resources. Because APS offers short term and emergency services, workers typically make referrals to other community agencies to provide needed follow-up services. There is an inadequate supply of critical second-tier services, including public guardians and legal assistance programs.
- APS personnel lack evidence-based practices to help direct interventions and service delivery. Although counties have developed innovations and promising practices, these efforts are limited to counties that can provide the necessary resources. In addition, evidence-based outcome measures on the effectiveness of interventions and service delivery have not yet been researched and other counties that stand to benefit lack information, replication guides, and technical assistance to help them do so.

- Although California serves nearly 15% of all APS clients in the nation, the state’s ability to provide a meaningful voice in national APS policy, research, and practice development is impeded by the lack of state leadership and a system for contributing statewide data on clients. It has further lacked state personnel available to apply for public or private grants for training, technical assistance, or pilot projects.

Recommendations

1. Commission a study of APS by the Legislative Analyst’s Office, California Department of Social Services, the Little Hoover Commission, the Blue Ribbon Panel on Elder Justice, or others. Key goals include:

- Explore the benefits, drawbacks, and feasibility of a new statewide department of Adult and Disability Services that would include APS. This would conform with the recent creation of the federal Administration for Community Living (ACL), which consolidated the Administration on Aging with the Administration on Intellectual and Developmental Disabilities, and the HHS Office on Disability, and brought APS under its purview. It would further position APS more favorably vis-à-vis the state and federal health care delivery system, including the Coordinated Care Initiative (CCI).
- Propose strategies for shoring up APS to meet the needs of an aging state and better serve abused and neglected elders and dependent adults.
- Alert policy makers to critical APS needs and enlist their support and assistance.
- Clarify the state’s role in APS under realignment.

2. Advocate for a state mandated and funded APS training program that:

- Is regionally based.
- Reduces disparities among county APS programs in terms of services, staffing, training, and communication, through consistent casework practices across the state.
- Ensures comprehensive training for new APS workers.
- Provides on-going training that responds to new and emerging trends for all APS workers.
- Includes content on cultural factors impacting APS casework and cultural competence in working with APS clients.
- Strategies for creating a training program include:
 - Emphasizes the role of APS in relation to the broader aging network.
 - Employs a family focus as opposed to focusing solely on individual clients.

3. Advocate for a dedicated APS staff person to:

- Review and update state policies and procedures for county APS programs to ensure consistency with current laws, support local program operations and promote best casework practices throughout the state.
- Develop program goals, performance measures, and desired outcomes for APS, and a strategic plan to assist county programs to accomplish these.
- Collaborate with other state departments, county agencies and other stakeholders that provide or oversee elder justice services to improve policies, practices and services for elders and dependent adults.
- Oversee the development of a state data collection system to track services and performance of APS programs.

- Serve as a point person to respond to requests from federal agencies and national organizations and to seek out opportunities that will better prepare the state to manage federal initiatives and mandates in the APS program.
 - Engage county APS agencies and other stakeholders in the development of state policy related to APS that responds to new and emergent needs.
 - Provide technical assistance to local programs to promote adherence to state APS policy and state-regulated casework practices.
 - Oversees the development of a statewide APS training program.
 - Develop, in collaboration with county APS and experts in the field, guidelines for consideration by local APS programs that will address the following areas:
 - Workload standards for APS workers
 - Availability and utilization of tangible services for local programs
 - Educational and professional development of APS workers
 - Structure for 24 hour APS response
4. Explore strategies to improve communication and coordination among agencies that interface with APS. Specific areas to address include:
- Confidentiality concerns
 - Strengthen standards, guidelines, procedures, and referral protocols to improve collaboration around cross-reporting between APS and law enforcement. Approaches may include:
 - Encourage a national organization to host a repository of contact information for Corporate Security and/or Fraud Departments for respective financial institutions -- at least for the top 20 major institutions.
 - Disseminate information about federal guidelines that clarify what information financial institutions may provide to APS and law enforcement (see below).
5. Create a state database for APS that:
- Collects data that can be used to guide policy, substantiate the need for new resources.
 - Is designed to make it less cumbersome for counties to enter data.
 - Reflects current state laws and regulations.
 - Collects perpetrator data on a statewide level for better tracking.
 - Is compatible with the federal data collection system currently being designed.
6. Improve timely reporting by mandated reporters and the public through the following:
- Improve and increase outreach and education to frontline responders.
 - Improve public relations to recount a more compelling story of APS paired with better data that could/should be managed at a state level.
 - Provide data, drawing from the state data collection system, to raise public awareness about the nature and scope of the problem.
 - Explore culturally specific needs and approaches, including how abuse is perceived and addressed by various groups, culturally specific outreach campaigns, etc.
7. Ensure adequate resources for APS
- Develop staffing guidelines based on the elder and dependent adult population; APS mandates (e.g. requirements that APS responds to certain cases within 24 hours) and caseload standards for effective delivery. Partner with researchers or universities to study California's APS staffing needs.

- Encourage state departments and counties to seek federal funding for protective work in elder abuse by facilitating the development of proposals.
 - Advocate for funding for collateral services needed by APS clients, including:
 - Public guardians for clients who lack capacity to make decisions or provide for their own care.
 - Forensic Centers and FAST Teams.
 - Promote the development, evaluation, and dissemination of promising practices for meeting state mandates (e.g. 24 hour response requirements) that can lead to statewide standards as well as best practices for specific services.
8. Ensure a highly trained APS and allied professional workforce through the following:
- Create incentives for social workers to work for APS through subsidized education programs, salaries that are commensurate with those of CPS workers, and career advancement opportunities.
 - Create similar incentives for psychologists and MDs and civil attorneys to specialize in the field of elder abuse and aging.

Resources

- Project MASTER at San Diego State University has worked closely with the National Adult Protective Services Association (NAPSA) to develop training modules that reflect 23 core competencies based on the latest research. The modules have all been piloted and evaluated. The topics range from initial investigation, sexual and physical abuse, neglect, self-neglect and financial exploitation to case planning and case closure.
- The National APS Resource Center (NAPSRC) provides webinars, materials on research, and responds to requests for information and technical assistance by programs and individuals. It focuses on evidence-based practices.
- Promising Practices for Modernizing APS
 - Attempts at developing evidenced based practices must be strengthened. Overarching message is that we need to garner interest from researchers to study APS casework practice. The APS TRIO (Tool for Risk, Interventions and Outcomes) tool was developed in Ventura County has been tested by UC San Diego, but needs to be expanded.
 - Mandated reporting for financial institutions is a best practice.

Implementation of Recommendations

The following progress has been made toward accomplishing *From Practice to Policy: Elder Justice Policy Summit* recommendations or addressing issues raised by the APS breakout group during or subsequent to the event.

1. In 2014, the California Commission on Aging, California Elder Justice Coalition and the County Welfare Directors Association of California joined in sponsoring a request for a General Fund budget augmentation for APS statewide. The \$1.4 million request was designed to:
 - Increase the statewide training budget for county APS social work staff from the current \$154,000 to \$1.25 million, increasing training from 5 days to 12 days per year per worker, matching the standards set by the National Adult Protective Services Association. The augmentation will additionally place APS training coordinators in each of the state's five regions, provide for development of e-learning modules to provide

distance learning for both APS staff and for mandated reporter training, coordination of in-person mandated reporting training, program evaluation, coordination of training through California Social Work Education Center, and overhead costs.

- The remaining \$150,000 in the budget request would place a Career Executive-level civil service position in the director's office at the Department of Social Services. The position will be in addition to the .75 FTE DSS currently assigned to APS. This staff position would be responsible for ensuring consistency of casework practices while supporting local innovation and recognizing local needs. The APS executive will be responsible for coordination of efforts with other state agencies that have a role in elder abuse prevention and will serve as liaison with the federal government, taking a leadership role with the anticipated Elder Justice Act funding and implementation to build operational capacity to prepare California to meet the growing need.

A coalition of more than 30 additional organizations signed on to support the APS budget augmentation, which was only partially approved by the Legislature. In June the Governor was sent budget legislation that included the new APS staff position at DSS, with no allocation for increased training dollars.

2. Elder Abuse advocates proposed involving California state officials in the development of a national APS data collection system by the federal Administration on Aging (AOA) and Department of Justice. The project was funded in the fall of 2013, and AOA Assistant Secretary Kathy Greenlee met with the CCoA and with APS program directors to identify systems in place for data collection in the state.

IMPROVING CALIFORNIA'S RESPONSE TO ELDER ABUSE IN INSTITUTIONAL SETTINGS

Background

Agencies that have investigative responsibility for abuse in long-term care facility settings include Long Term Care Ombudsman, regulatory agencies, law enforcement, and Bureau of Medi-Cal Fraud and Elder Abuse at the California Department of Justice. Positive and negative attributes of those agencies, training needs, and solutions were reviewed.

Positive attributes:

- The Ombudsman Program is a state-wide network; on the front lines; role is to resolve problems; dedicated advocates; can get through red tape; have historical information about facilities; Ombudsmen focus on victims' issues; They have an obligation to follow through
- Police: Some dedicated EA officers willing to train others; Physical abuse gets assigned to the assault table, treated as important; Law enforcement responds to 911 calls; Sometimes uniformed officers get a better response/more cooperation from facilities

Challenges and Needs

- Ombudsman Issues
 - Ombudsmen Programs have inconsistent training on elder abuse investigations across the state;
 - There is no state-wide system of identifying "bad actors";
 - Cross-reporting is inconsistent around the state;
 - Ombudsmen fail to adequately document evidence;
 - no funding for elder abuse investigations
- Ombudsman Training needs:
 - Documenting evidence;
 - abuse investigation;
 - assessing capacity;
 - assessing quality of care related to medical neglect
- Law enforcement issues
 - Officers rotate out frequently, and new officers not knowledgeable about EA;
 - departments don't have funding or officers with specialized training;
 - funding cuts, community policing and specialized assignments cut first;
 - Elder abuse (especially in facilities) not a priority for local law enforcement;
 - Armed officers can be scary to residents;
 - Beat cops who respond to calls are not interested in these cases;
 - When deaths in facilities assigned to homicide detectives, they tend to dismiss these cases
- Police Training needs:
 - Training on types of elder/dependent adult abuse and neglect can be prosecuted;
 - How to better approach residents in long-term care;
 - Elder abuse is a crime and not only a civil matter

Institutional Abuse Commitments

- Improve California's response to institutional elder abuse through legislative proposals.
- Complete homework to improve California's response to institutional elder abuse.
- Develop a short guide for responders in facility settings (i.e. who does what/contact information/jurisdiction).
- Include a half day session on elder abuse at the medical directors conferences.

MOBILIZING CAREGIVERS TO PREVENT ABUSE

Background

Retrenchments in community-based long-term care services resulting from the recession, as well as the increasing number of frail older adults living in the community, have heightened the demands placed on family and informal caregivers. Research on family caregiving shows that caregiving takes a heavy toll on caregivers. In response, advocates have called for long term services and support (LTSS) programs to routinely explore the well-being and needs of caregivers during client assessments in order to offer support, instruction, and resources. In California, advocates have called for including questions to assess family caregivers' needs in a universal assessment of LTSS clients currently being discussed by the California Universal Assessment Stakeholder Group.

Recent studies of abuse and neglect by family members caring for people with dementia suggest high levels of mistreatment. Elder justice advocates have responded by also calling for LTSS programs to assess caregivers' needs with an emphasis on identifying high risk situations that can be mitigated or monitored.

These concerns prompted summit planners to convene a breakout session comprising representatives from the elder justice and family caregiving networks to explore common concerns and develop strategies for supporting caregivers, identifying high risk situations, and preventing abuse and neglect.

New Developments

- Senate Bill 1036 (2012) requires the California Department of Social Services (CDSS), Department of Health Care Services (DHCS) and California Department of Aging (CDA), with stakeholder input, to develop and test a Universal Assessment process to be used in the In-Home Supportive Services (IHSS), Multipurpose Senior Services, and Community Based Adults Services programs to facilitate coordination, data sharing and care planning and improved consumer quality of care. CDSS, DHCS and CDA are convening Home and Community Based Universal Assessment Workgroup. Family caregiver advocates are participating on the workgroup to advocate for including caregivers' needs in the assessments.
- Assembly Bill 1744 (Brown), an AARP-sponsored bill currently under consideration in the Legislature, would convene a blue ribbon panel to study resources and supports available in the state for family caregivers and to make legislative recommendations for policy changes to improve services for informal caregivers in the state.

Challenges and Needs

- LTSS programs are not family focused and fail to provide support to family caregivers who provide the majority of care that frail older adults depend on to remain in their homes and communities.
- The National Family Caregiver Support Program requires states to offer information to family caregivers about available services, assistance in accessing them, individual counseling, support groups, training, respite care, and supplemental services. However, inconsistent administration and oversight of the programs has led to discrepancies in the number of clients served and services offered.

- Adult protective services (APS) programs, which traditionally addressed the needs of families, have increasingly taken on investigatory functions, including investigating the conduct of caregivers. This can create distrust and even place APS workers in adversarial relations with caregivers.
- Some elder justice advocates, believing that caregiver stress is frequently used as an inappropriate excuse or defense for misconduct, reject approaches that address caregiver stress, contributing to divisions between the elder justice and caregiving networks.
- The interface between neglect or abuse by well-meaning and/or overburdened caregivers and conduct that is malevolent, predatory, or exploitive is not well understood. Front-line workers in elder justice, family caregiving, and LTSS need guidance in assessing the dynamics and motives in specific instance of misconduct to respond appropriately. Interventions must be tailored to various situations.
- Lack of understanding by elder justice advocates about services and resources for caregivers, including financial support, resources, training, support groups, etc.
- Lack of understanding by workers in both networks about the effectiveness of legal interventions in preventing caregiver abuse or mitigating its impact, including court ordered training or counseling for recalcitrant caregivers, court monitored mediation to resolve family conflicts around caregiving, restraining orders, powers of attorney, and conservatorship.
- Lack of data about caregivers' needs and promising approaches to meeting them, particularly aggregate national data.

Recommendations

1. Promote the use of caregiver assessments, particularly when plans of care rest on family caregivers:

- The goals of caregiver assessments is to:
 - Determine the need for family-centered interventions.
 - Evaluate “caregiver readiness” and the potential for “caregiver failure.”
 - Identify families that are at high risk for elder mistreatment and neglect. Markers may include tipping points” (benchmarks that suggest the need for support or protective services) and “high risk caregiving moments” (incidents or circumstances that heighten risk such as financial stresses or changes in care receivers’ care needs).
- Track and monitor caregivers’ follow through.
 - Settings, circumstances and programs in which assessments should be used:
 - ✓ All HCBS and LTSS programs.
 - ✓ During annual medical visits for preventive care.
 - ✓ Ideally visits should occur in home settings. The feasibility of using electronic and telecommunications technologies to reach caregivers should be explored.

2. Encourage mental health, criminal justice, and family justice service providers to assess potential caregivers’ capacity to live with and provide care to frail elders as well as the risk of abuse.

3. Require California’s Title III-E (Older Americans Act) Family Caregiver Support Program to develop a universal performance-based assessment tool for counties to ensure uniformity.

- Steps for designing a universal caregiver assessment tool:
 - Research and review best practice assessment tools and models, including states that have implemented caregiver assessments (Rhode Island, Texas, and Minnesota have

been cited as ‘gold standard’ assessments). In particular, tools that assess abuse status and high risk living situations should be explored.

- Convene key stakeholders from various disciplines to solicit input and recommendations for screening instruments and legal system interventions, and to review and test assessment tools
- Explore cultural variations in attitudes and expectations about caregiving.
- Strategies for implementation:
 - Explore the existing and potential roles of LTSS service providers in assessing caregivers’ needs, offering services, providing family centered services, and monitoring high risk situations. Specific programs to assess include managed care plans, caregiving programs, and IHSS.
 - Collaborate with groups currently promoting universal assessment. Explore opportunities presented by the Coordinated Care Initiative (CCI) and other developments in Long Term Services and Supports (LTSS) to implement a universal caregiver assessment tool.
 - Explore approaches to implementation used in other states including legislation to mandate uniform caregiver risk assessment (e.g. RI passed legislation)
 - Convene a Caregiver Consultation Team to review/consider LTSS Caregiver related issues. Areas to explore include the current and potential role of elder justice programs in assessing caregivers’ needs, offering services, providing family centered services, and monitoring high risk situations. Specific programs that may play a role are APS, elder courts, family justice centers, mental health services, and the faith community.
- Implement systems to reassess caregiving families on an ongoing basis to identify new and emergent needs and to understanding the needs and risk factors for caregiver neglect or abuse. Specific approaches include:
 - Require health plans and managed care plans to develop electronic systems for collecting caregiver data.
 - Include caregiver assessment in "meaningful use" electronic health records (standards defined by CMS that govern the use of electronic health records and allow eligible providers and hospitals to earn incentive payments by meeting specific criteria).
 - Research states that already have "Medicare codes" for respite and care planning.

4. Increase access to, and coordination of, services that support caregivers and prevent abuse. Specific approaches include:

- Conduct community capacity needs assessment to determine if communities are prepared to respond to the service needs of caregivers once they are assessed. Identify gaps in resources and service delivery.
- Services and approaches to consider include:
 - “Safe” estate planning or managing finances
 - Mediation among family caregivers, etc.
 - Family unification approaches that can be applied in caregiving families.
- Approaches currently being used by California courts to address caregiving needs and hold caregivers accountable, including:
 - To what extent and under what circumstances are caregiving issues being addressed by courts (e.g. courts ordering abusive caregivers into caregiver training programs as a condition of probation or through diversion).

- To what extent and under what circumstances are defendants in abuse cases using caregiver stress as a defense (both justifiable and bogus).
 - Is there a need for expert witnesses to explain to prosecutors, judges, court personnel and others the dynamics in caregiving relationships and differentiate them from dynamics in domestic violence?
 - Explore what resources APS has for working with caregivers, what training they currently receive in caregiving and the needs of caregivers, and unmet needs.
 - Explore the need for heightened accountability of In Home Support Services workers who abuse.
 - Improve coordination between APS and LTSS in responding to caregiver need for support services.
 - Address inconsistencies in the administration, oversight, and accountability of OAA Title III-E family caregiver support programs across the state and determine how service delivery can be maximized and improved.
 - Develop data collection and electronic record systems
5. Ensure that LTSS and elder justice service providers and the public have the training they need. Specific approaches include:
- Integrate caregiver education and tools into community education curricula.
 - Integrate caregiver competencies (including how to assess the risk for caregiver abuse) into new and existing education and certification programs for the following groups:
 - Medical practitioners
 - Social workers
 - LTSS providers
 - Elder justice service providers
 - Health plans
 - Partner with existing training institutions, including CALSWEC to integrate.
 - Explore health plan education about “caregiver readiness,” screening.
 - Encourage community colleges to get involved in providing caregiver education.
 - Use real life caregiver case scenarios in trainings to highlight the complexities of cases, gaps in services and education, and resources.

Implementation of Recommendations

The following progress has been made toward accomplishing *From Practice to Policy: Elder Justice Policy Summit* recommendations or addressing issues raised by breakout groups during or subsequent to the event.

1. Following the summit, participants in the breakout session on caregiving have continued to meet to further explore the challenges described above, develop strategies for responding to problems, and implement the group’s recommendations.

Resources

Employed Family Caregivers Providing Complex Chronic Care

This report by AARP Public Policy Institute and the United Hospital Fund (UHF) examines stress brought on by the responsibilities of full- or part-time employment combined with high levels of care-related responsibilities at home. It finds that nearly half of all employed family caregivers perform medical/nursing tasks, including medication management, wound care,

tracking glucose levels and blood pressure readings -- often with little or no training or support. In addition, 61 percent report feeling stressed over the range of responsibilities. The report is available at <http://www.uhfny.org/news/880950>.

Promising Practices for Mobilizing Caregivers

- CastleKeep conducts a 3-hour training that integrates family caregiver stress burden triggers for providers and formal caregivers, Hospice disciplines
- Bet Tzedek Caregiver Program

This provider of legal assistance in Los Angeles educates caregivers through hospitals and senior centers about caregiver resources, conducts outreach presentations and legal services, including advice about the risks and benefits of Powers of Attorney, conservatorships; and restraining orders. Conducts self-help clinics. Helps caregivers get conservatorships by providing assistance writing and filing petitions; serving notices to relatives, etc. to expedite court action.

ENSURING JUSTICE: EXAMINING THE LEGAL SYSTEM'S ROLE

Background

California has led the nation in developing statutory and procedural innovations for strengthening the justice system's response to elder abuse. These include:

- California's criminal elder abuse statute (Penal Code §368) acknowledges that elders deserve special protection and consideration due to their vulnerability and carries penalty enhancements for crimes against elders;
- California's "Elder Abuse and Dependent Civil Protection Act" contains provisions for attorney fee awards as incentives for counsel to undertake elder abuse cases;
- Multidisciplinary teams provide opportunities for legal professionals to collaborate with health and social service providers in building cases. Specialized teams like financial abuse specialist teams, forensics teams, and death review teams are particularly likely to review cases that come to court;
- Specialized elder abuse units in police departments and prosecutors' offices; and
- Vertical prosecution in which a single attorney handles a case from beginning to end.

Despite these strengths, multiple challenges were identified by delegates to CEJC's first elder justice summit (2010), the 2013 Summit and reports by California's Judicial Council (2006, 2008), the San Francisco Conservatorship Work Group (Quinn & Nerenberg, 2005), and GAO Report on Guardian Abuse (2010), and others. As significant progress is made in some areas, new developments are creating additional challenges.

New Developments

- The Government Accountability Office (GAO) report *Guardianships: Cases of Financial Exploitation, Neglect, and Abuse of Seniors* (2010) demonstrated abuses of guardianship/conservatorship processes. It focuses on 20 cases in which guardians stole or improperly obtained assets from incapacitated victims. In the majority of these cases, the GAO found that there was insufficient oversight of guardians after appointment.
- Leaders in the field of guardianship reform, elder law, and disability rights around the world are increasingly calling for "person-centered" and "supported" decision making approaches for working with older and dependent adults with diminished capacity. This trend, which was highlighted at the 3rd World Congress on Adult Guardianship provides new opportunities for those who require assistance in decision making to express their preferences, values, and wishes and highlights the need for less restrictive alternatives to guardianship. However, it raises new challenges to preventing elder abuse as some options being proposed as alternatives to guardianship (e.g. durable powers of attorney) offer few protections, and can be used to exploit the vulnerable and deprive them of their rights. The implications of this trend for APS workers, Ombudsmen, providers of legal assistance for seniors, family caregivers, elder and probate court personnel, and providers of LTSS are unclear.
- The Consumer Financial Protection Bureau, working with seven other federal agencies, released Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults, which clarify that financial institutions may report suspicions of elder financial abuse and release client records to APS and law enforcement to further investigations.
- *People v. Brock* established that undue influence is not a crime under PC 368 as it currently exists. The appellate court that made the ruling, however, further noted that

“amending PC 368 to include financial exploitation and criminal undue influence as legally supportable theories that vitiate the consent of an elder or dependent adult would support the Legislature's previously stated intent to provide special consideration and protection to elders and dependent adults because of their increased vulnerability.”

- California's prison system has been realigned (Penal Code Section 1170(h)) with many convicted felons who previously would have been sentenced to state prisons now serving sentences in county jails.
- Loss of FASTs and forensics teams.
- Federal focus on financial crimes against the elderly & disabled was announced in 2012, coinciding with the first meeting of the Elder Justice Coordinating Council and the announcement of a joint initiative focused on financial abuse by the Health and Human Service Agency and the Department of Justice in 2012.
- A May, 2013 Government Accounting Office report to the Senate Special Committee on Aging called on the federal government to do more to fight financial exploitation of the elderly.
- A state interagency working group (E-FAIR) developed at the California Department of Insurance is dedicated to providing seniors access to SCAM information and related services.
- Mandated reporter expansion efforts include money transmitters (i.e. Western Union) and Notaries public.

Challenges and Needs

Members of the breakout session at *the From Practice to Policy Elder Justice Policy Summit* distinguished between the civil and criminal areas of law in developing recommendations and identified two additional areas that require special attention: financial abuse and restitution. The following recommendations, therefore, reflect general challenges to the legal system as well as challenges specific to these areas.

General Challenges

1. Lack of data that courts, criminal justice agencies, and others could use to track trends in the legal system response to elder abuse. This includes:
 - Reports on financial abuse are not routinely being reported to federal law enforcement agencies that are attempting to build cases against scammers, predators, crime rings, and others.
 - Reports from fatality review teams and forensics centers are not being routinely collected. Reports do not go into national data base.
 - Data on police reports involving elder abuse is not routinely being collected.
 - Data on civil cases, court rulings, etc. are not routinely being collected.
2. Justice system professionals and their partners lack timely, streamlined information about developments at the state, national, and international levels as well as opportunities to share their insights and perspectives. Examples include:
 - Information about the Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults has not been made available to stakeholders, including law enforcement agencies, APS, and financial institutions.
 - Changes to California's statutes, including those described above.

3. Training needs:

- Court staff needs training in elder abuse law and remedies, including elder and dependent adult abuse civil restraining orders. Should be included in standards of judicial administration.
- Judiciary. Currently, training courses for judges are voluntary, with only a small percentage participate in training on elder abuse and related topics due to lack of funds for education, competing interests, and increased case loads.
- Attorneys. Both civil and criminal attorneys need training in elder abuse. Need more opportunities to attend events/get training.
- Funding is needed to implement the W&I Sec. 13515 mandate.
- Promising approaches to training include domestic violence models, which include Florida's Elder Crime Practitioner Designation program and the Institute on Aging's "368+ Elder and Dependent Adult Abuse Guide for CA Law Enforcement," developed with the advice and assistance of colleagues in the fields of law enforcement, civil law, and medicine.
- Information about promising legal practices and services, including elder courts, forensics center, and fatality review teams, are not reaching those who stand to benefit. Pilot projects are needed to track the costs and benefits of promising approaches, and consultation, technical assistance, and replication guides are needed to foster new programs. Communities that lack sufficient resources to implement costly programs like forensics centers could benefit from materials that highlight "lessons learned" and tips, as well as access to expert witnesses, how to guides, reports, and training.
- Victims face barriers to access to the legal system owing to:
 - Physical barriers to courts and lack of assistive devices or physical accommodations
 - Victims may be experiencing multiple problems that fall under the jurisdiction of different courts (probate, family, criminal)
 - Court personnel and allied professionals, including clerks, judges, court investigators, and victim advocates, may not understand the special needs of older victims
 - Lack of surrogates for people who are unable to advocate for themselves
 - Shortage of free or affordable legal assistance

4. Criminal Challenges

- Training for law enforcement is no longer funded through the state budget and is provided at the discretion of local agencies. Specific areas of need for law enforcement training is how to investigate and build cases involving financial abuse, neglect, and abuse in long term care facilities,
- Lack of prosecutions. Although some county district attorneys have made elder abuse cases a priority, elder abuse cases generally do not get the degree of attention that is warranted by prosecutors. Barriers include problems with witness capacity and a tendency to treat cases as civil matters. Prosecution rates have also been impacted by budget cuts to district attorneys, investigators, and experts in such areas as forensic accounting.
- Defendants' rights to confront their accusers can limit use of video conferencing. A "knowing waiver" is required to use taped testimony.

- Under realignment financial elder abuse crimes resulting in prison sentences are served at the county level. Some suggest that this has had negative repercussions, including perpetrators of elder financial abuse serving less time and not paying restitution.

5. Civil Challenges

- Challenges related to conservatorship include:
 - Self-represented individuals find the process complicated and expensive.
 - Self-represented individuals need support to demystifying the court process and offer reassurance.
 - Investigators and examiners have backlogs of cases
- Challenges related to financial abuse include:
 - Certain remedies for financial abuse require “clear and convincing evidence,” that abuse has occurred, which is a high standard to meet.
 - Statutes addressing financial abuse raise complex issues regarding the state of mind of offenders (e.g. “intent to defraud”) and victims (“unable to withstand undue influence”), which are difficult to establish. Other problematic terms and confusing or problematic definitions include the “wrongful use” of another’s property.
 - Low-income elders are often prevented from pursuing fraudsters and known thieves in small claims court by the low dollar amounts lost, despite the significant impact even a small amount of lost money may have on an elder’s life.

6. Financial Abuse

Members of the breakout session at the *From Practice to Policy Elder Justice Policy Summit* noted that progress has been made in heightening protections against financial abuse. In particular, state mandated reporting laws for financial institutions are being recognized and FAST teams have had a positive impact on improving communities’ ability to resolve cases. They noted, however, the following new and existing challenges:

- Financial abuse appears to be increasing, which may be the result of:
 - Reporting laws that now include financial institutions as mandated reporters.
 - Many older adults who are incapable of managing their own financial affairs lack trustworthy surrogates.
 - Helpers, including home health aides and caregivers, have easy access to clients’ assets and financial documents.
 - Elders are believed to be targeted because they have 47 times the net worth of people age 45.
- Specific situations being observed include:
 - Misuse of Powers of Attorney and guardianships
 - Family members who obtain assets improperly or illegally don’t believe what they’re doing is wrong or feel a sense of entitlement toward parents’ assets.

7. Restitution

Recovering stolen or misappropriated assets from their offenders is one of victims’ most highly valued rights. Persistent problems, however, have prevented victims from receiving restitution, including:

- Restitution orders are optional in criminal financial abuse cases.
- Although it is possible to impose restitution orders in criminal prosecutions that are subject to the same enforcement provisions as other penalties, many prosecutors fail to ask for it, and many judges fail to order it.

- Recovering restitution is a complex process that is typically left to victims to pursue with little support or instruction.
- Some criminal justice professionals believe that realignment has hindered restitution collection.

Recommendations

1. Increase state and federal data collection so that courts, law enforcement, the judiciary, policy makers, and others can track trends in elder abuse, remedies used, case outcomes, and legal needs.
 - Mandate data tracking of all elder and dependent adult abuse cases.
 - Mandate that police accept reports on abuse even when they do not intend to pursue them, and pass on the information to APS and federal law enforcement and other entities that are collecting abuse data.
2. Inform financial institutions and abuse investigators, including law enforcement and APS, about the federal guidelines that clarify that financial institutions may both report suspicions of elder financial abuse and release client records to further investigations.
3. Develop additional statutes and legal tools to:
 - Aid prosecution.
 - Ensure more equitable results.
 - Explore and address the need for consistency within and between Civil, Penal, Commercial, Family, and Probate codes.
 - Reduce complexity in statutes addressing financial abuse (e.g. compile and simplify to reduce fragmentation).
 - Incorporate undue influence into criminal law.
 - Include “exploitation” in definitions of financial abuse broaden the range of conduct that is covered.
4. Provide training to legal professionals and their partners in new laws, existing laws that are not currently being used routinely and uniformly and promising legal strategies. Examples include:
 - Elder and Dependent Adult Abuse Restraining Orders, including how orders are being used to prevent further financial losses.
 - “Right to attach” orders can be used to lock away assets to protect them at the beginning of cases.
 - Punitive damages that can be applied to punish culpable behavior.
5. Improve access to courts for elder and dependent adult victims through the following:
 - Assess and provide for victims’ (witnesses’) physical and cognitive needs in courtrooms and eliminate barriers and deterrents to the courts risking a form of re-victimization.
 - Assess the impact of abuse on tribal communities.
 - Increase fatality reviews and reports.
 - Elder abuse services should be included in “core functions.” Four counties have dedicated elder abuse courts. Many have trained prosecutors. Budget cuts have limited the courts to “core functions.”
 - Offer “conditional” examination of a senior that can be used in courts and video-tape testimony for use in trial, with some legal limitations on how this can be done. Taping allows a prosecutor to discern how “prosecutable” a case is.

- Drop the dollar amount allowed for seniors filing in small claims court to provide greater opportunities to have funds restored.
6. Improve access to legal assistance.
- Develop approaches for providing legal assistance to non-affluent older adults. Promising approaches include:
 - Recruit pro bono lawyers from firms to handle lower-loss cases.
 - Explore “White Collar Crime Center” model, which offers resources like forensic accounting services and technical assistance at no cost.
 - Utilize technology as a means for getting a senior to court.
 - Fund senior peer counselors.
7. Ensure that legal professionals receive adequate training in elder abuse.
- Explore and address gaps in training and identify and disseminate existing training resources.
 - Ensure that mandated training is made available to professional groups that are covered, that mandated training is funded, and that mandates are enforced. Examples of mandates include:
 - Penal Code 13515 mandates Police Officers Standards and Training (POST) training in elder abuse for law enforcement.
 - Probate Code 2950 details training requirements for investigators of financial crimes against mentally impaired elders.
8. Heighten awareness among legal professionals and the public. Promising approaches include the following:
- Engage California’s Attorney General and the U.S Attorney.
 - Increase public awareness about elder abuse and APS’s role through public service announcements (PSAs).
9. Identify, expand on, and disseminate resources to improve legal professionals’ skills in preventing abuse and mitigating its impact.
- Provide ongoing support to professional forums and case review teams, including fatality review teams, fiduciary abuse special teams (FASTs) and forensics centers.
10. Pilot promising models to evaluate the costs, management, and outcomes of services and interventions, including:
- Victim compensation programs for elderly victims of financial crimes.
 - Restitution recovery.
11. Ensure that victims of elder financial abuse receive the resources and services they need, including:
- Financial credit counseling and advocacy with creditors
 - Legal intervention to protect assets and recover losses, restitution, and damages
 - Mental health counseling, including peer counseling programs
 - hand down “split sentences” in which the last portion of the sentence is spent under community supervision allowing the perpetrator to work and pay restitution.
 - Pilot programs that increase restitution recovery. Promising models include:
 - Vermont has developed a model under which crime victims receive restitution payments up front from a government fund generated by a 15 percent surcharge on all criminal and traffic court fines. The Vermont Center for Crime Victims Services, a non-profit agency, assumes the debt and hires professional collections investigators to collect the money from the offenders.

- Educate counties on use of Senior Peer Counselors in elder courts, the work of the Crimes Against Seniors State/Federal Task Force, and local law enforcement roll call trainings.

Implementation of Recommendations

The following progress has been made toward accomplishing *From Practice to Policy: Elder Justice Policy Summit* recommendations or addressing issues raised by breakout groups during or subsequent to the event.

Legislation

- SB 940 (2014) – Uniform Guardianship/Conservatorship Act: Would establish conditions for the transfer of a conservatorship established within this state to a jurisdiction outside the state, and a transfer of a conservatorship into this state, and for the registration and recognition by this state of conservatorship established in other jurisdiction.
- SB 914 (2014): Would allow plaintiffs in small claims actions for whom appearing at hearings would pose undue hardship due to limited mobility or limited access to transportation to submit declarations as evidence supporting claims or allow others to appear and participate on their behalves.
- AB 2623 (2014): Sought to improve elder abuse curriculum offered to local law enforcement officials. Early drafts would have required law enforcement to have available a palm card to leave with possible victims, providing them with contact information for APS and Ombudsmen, and would have called for updated training every two years. Those provisions were deleted from the bill, and the current draft requires law enforcement to receive training in the legal rights of elders and legal remedies available to them. It would also require that the new training component be drafted in consultation with local APS and the long-term Ombudsman.
- SB 60 (2013) – SB 847 (2014): Following–up on a recommendation from the 2010 Elder Abuse Summit, CCoA worked with CEJC to develop a proposal to make victims of elder and dependent adult financial abuse eligible to receive assistance through the California Victims Compensation Fund. Following several years of research into alternative approaches, in 2013 and again in 2014, legislation was introduced to make elderly and dependent adult financial crime victims eligible for assistance, which is currently made available to victims of violent crimes and human trafficking. The proposals were to make only \$2,000 available per victim for mental health and financial counseling, with the goal of helping victims connect with case management services and potentially seek restoration of funds through the courts. Both bills were deemed too costly and were killed by the Appropriations Committee.
- Changes to the Elder and Dependent Adult Civil Protection Act (EDACPA), the Welfare and Institutions (W&I) Code and the Probate Code have heightened protections for older adults. Examples include:
 - Statutory definitions of financial abuse have been amended to cover a broader range of conduct related to acquiring property.
 - AB 140 (2013) updated the statutory definition of undue influence under the Elder and Dependent Adult Civil Protection Act (EDACPA) and the Probate Code, as “excessive persuasion that causes another person to act or refrain from action by overcoming that person's free will and that results in inequity.” The new definition calls upon the court,

in determining whether a result was produced by undue influence, to consider four factors that suggest undue influence:

- ✓ Vulnerability of the victim
- ✓ The power or authority of the influencer
- ✓ The unfair or improper tactics employed
- ✓ The equity or fairness of the outcome.

AB 140 further addresses confusing definitions of “Wrongful Use” statutes. It requires that elders be treated fairly and establishes a threshold of fairness. It includes new language stating that undue influence exists when a perpetrator knows that taking property will be harmful to the elder and clarifies that victims are entitled to all compensatory damages, including general compensation and special costs. In addition, plaintiffs receive mandatory attorney’s fees when cases are decided in their favor. When theft of property involves elders with limited capacity, property must be returned or perpetrators faces double damages. In certain situation, they may receive triple damages (Civil Code Sec. 3345).

- AB 381 (2013) creates a new remedy that covers situations in which certain types of property have been taken. It requires double damages with no court discretion. When theft of property involves an elder with limited capacity, property must be returned or perpetrator faces double damages.
- SB 914 (2014) would have lowered the threshold for small claims by older victims of financial abuse, allowed for expedited handling of small-dollar small claims cases, and enabled older adult plaintiffs with mobility limitations to submit declarations to substantiate claim or to allow others to appear for them. The bill was never heard by a legislative committee.

Resources

Guidelines for States Wishing to Implement Uniform Statewide Reporting on Title IIIB Legal Services (in progress).

This initiative, which is funded by the Borchard Center on Law and Aging and administered by The Center for Social Gerontology (TCSG) with assistance from the . National Association of States United for Aging and Disabilities (NASUAD) is gathering statewide reporting data to "tell the story" of Title IIIB legal services and their impact and create guidelines for States to develop, or revise current, statewide reporting systems for Title IIIB legal services. The Guidelines will make recommendations about: (1) the process for developing statewide reporting, calling for active participation of State Units on Aging, Area Agencies on Aging and Title IIIB legal services providers; (2) data collection methods and types of data to be gathered; and (3) suggestions for using the information/data to help build support and understanding of the critical importance of legal services.

Center for Elders and the Courts

CEC’s website at (<http://www.eldersandcourts.org/>) lists a wide range of resources for courts and legal professionals, including:

- Performance measures for courts
- “Justice Responses to Elder Abuse,” an online self-paced course for professionals and the public in which medical, prosecution and judicial experts systemic barriers to effective remedies for victims and provides tools to improve access to justice and enhance outcomes.

- State by state listings of elder abuse and guardianship laws
- National probate court standards
- News on developments in elder justice

Working Interdisciplinary Networks Of Guardianship Stakeholders (WINGS)

The National Guardianship Network (NGN) provides incentive grants and technical assistance to the highest court in selected states to engage stakeholders in improving judicial processes, protect individual rights and meet needs, address insufficient funding, and ensure guardian accountability and fiduciary standards.” Examples of short term projects suggested by NGN include:

- Have courts distribute information on nursing home residents’ rights to new guardians.
- Schedule meetings between court administrative offices and regional Social Security offices responsible for representative payees.
- Increase the number of family guardians in the state guardianship association, and gear presentations toward their needs.
- Have experienced conservators mentor new conservators.
- Develop brochures or handouts about less restrictive (than guardianship) decision-making options.
- Use state guardianship associations to train guardians about state de-institutionalization programs underway.
- Convene meetings or presentations on “supported decision-making”

California’s Elder Abuse Bench Guide for Judges (under development)

American Bar Association, Recommended Guidelines for State Courts Handling Cases Involving Elder Abuse,

www.ncsconline.org/famviol/elderabuse/pdf/Key%20Components%20Exercise%20Resources/ABA%20Recommended%20Guidelines%20for%20Courts%20on%20Elder%20Abuse.pdf

Elder Abuse Pocket Reference for Judges; 107 pages, 2012

Judicial Council of California, Administrative Office of the Courts, *Handling Cases Involving Self-Represented Litigants: A Benchguide for Judicial Officers,*

www.nlada.org/DMS/Documents/1176151729.08/CA%20pro%20se%20Benchbook.pdf

California District Attorney Association trainings held in Annual Elder Abuse Multidisciplinary conferences that provides prosecutor training.

Administrative Office of the Courts developed a 2.5 day elder abuse course for judges.

Office of Violence Against Women funds training programs, including extensive training in elder abuse.

The National Family Justice Center Conference is doing elder abuse training.

Promising Practices for Legal System Responses

Elder Courts

California originated the concept of Elder Protection Court in 2001 with the creation of the Alameda Elder Protection Court under the leadership of Judge Julie Conger. Two additional courts in Contra Costa and Ventura Counties now exist. Primary features of the courts include:

- A single judge handles cases throughout the process, allowing them to gain a full appreciation of cases, address all the steps in the legal process, identify elders' ongoing needs, reach full resolution, and monitor cases through probation and restitution recovery.
- Court staff is trained to work with older adults. For example, bailiffs are trained to ask seniors about their needs.
- Focus on early resolution and restitution. Restitution is a primary focus of the court's action. For example, in Alameda County, the Probation Department reports to the elder court on elder abuse cases (all convictions include formal probation) and a judge reviews restitution orders. In some cases, judges will stay jail time in order to get restitution as criminal restitution orders must be done early.
- Operate at slower pace.
- Offer accommodations, including:
- Court calendars are based on elders' needs (scheduling elders' cases for 11 a.m. to allow time for them to get to court)
- "Conditional" examinations may be used.
- Videotaped testimony may be used in trial, with some legal limitations on how this can be done. Taping further allows prosecutors to discern how "prosecutable" cases are.
- Private rooms next to courtrooms where victims can hear and see court action without being seen to reduce fear
- Assistive devices and wheelchair seating
- Provide specialized services including self-help clinics and special outreach.
- Provide for community involvement. Examples include:
 - In Alameda County, a pool of experts consults on capacity issues and submit reports that can help with case disposition. The court also brings together private attorneys and law school interns and others to assist in cases.
 - The Contra Costa court arranges for senior peer counselors from a county mental health services program, to walk them through the court process and connect elders to needed services.
 - In Ventura County, a public health nurse is available to the court to make home visits.

Bet Tzedek Legal Services of Los Angeles provides the following:

- "Holistic assessment" during initial contacts with clients that include identifying caregivers and assessing their needs, and determining if other services or social work involvement is in place. Works closely with social service agencies and accepts referral from the L.A. Forensic Center.
- Outreach presentations that focus on elder abuse and provide education and information on resources.
- Self help clinics provide assistance with powers of attorney and advice on the risks and benefits of conservatorships and restraining orders; prepare petitions for filing and serve notices to secondary relatives to expedite court action; partner with court administrators; and meet with judges, court supervisors, and others to identify court strategies.

- Maintains close communication with court staff.
- Uses pro bono attorneys, video-conferencing to increase access to services.

Florida's Elder Crime Practitioner Designation is offered to individuals who are concerned about the vulnerability of the elderly; the reduction of elderly criminal victimization; and improving the elder's quality of life.

The Institute on Aging's "*368+ Elder and Dependent Adult Abuse Guide for CA Law Enforcement*" app was designed to help California law enforcement respond to cases of elder and dependent adult abuse. The mobile phone app was developed with the advice and assistance of colleagues in the fields of law enforcement, civil law, and medicine.

Model Approaches Grant - California's Model Approaches

In 2009, California received a three-year grant from the federal Administration for Community Living, which is shared by the Legal Aid Association of California (LAAC), the California Department of Aging, the Senior Legal Hotline, and OneJustice to increase the availability of low-cost, high-quality legal assistance to California seniors and bridge the gap between the needs of elders in California and the current legal system's ability to meet those needs. The project goals include targeting seniors with the most pressing needs of the state's huge, diverse population, and to reduce serious disparities in the availability of legal help. During Phase I of this two phase project, LAAC published a series of studies, including a survey of Area Agency-linked legal services, assessing the capacity of legal services to address older Californian's needs, provider training, and the integration of social services and legal services. In 2013 California applied for and received a second phase of Model Approaches, a three-year grant which aims to strengthen the Phase I delivery system to increase services to vulnerable seniors in Older Americans Act (OAA) priority legal issues, including elder abuse, neglect, and financial exploitation. Goals for "Phase II" include:

- Develop outreach and targeting strategies to reach the under-served
- Continue using Phase I data collection and reporting system to measure outcomes and demonstrate beneficial impacts
- Establish collaborations with elder rights networks to optimize legal responses to elder abuse, neglect, and financial exploitation
- Implement statewide legal training agenda focusing on priority issues

A Tribal Court Forum operated by the Administrative Office of the Court provides a venue to discuss issues of mutual importance to tribal and state justice systems relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases that might appear in either court system, and the sharing of services between jurisdictions. The Forum is charged with identifying issues concerning the working relationship between tribal and state courts and recommending to the Judicial Council ways to address these issues.

ACCESS AND PARITY

Background

Elder Justice requires access to protections and services that enhance independence and autonomy for all older adults and persons with disabilities. Protections are built on the assumption that older adults and persons with disabilities have access to a variety of resources and services, including those within the legal system. Special efforts are needed to overcome historical disparities that have resulted from discrimination, distrust of the system, and language and cultural barriers.

New Developments

There have been several new developments in the area of Access and Parity Elder Justice since the first Summit.

- In June 2008, same-sex marriage first became legal in California. The issuance of marriage licenses was halted from November 5, 2008 through June 27, 2013 due to the passage of Proposition 8, a state Constitutional amendment barring same-sex marriages. The granting of same-sex marriage licenses recommenced in 2013 following the United States Supreme Court decision in *Hollingsworth v. Perry*, which restored the effect of a federal district court ruling that overturned Proposition 8 as unconstitutional.
- A select literature review for the period 2010-2013 was conducted by researchers at Azusa Pacific University on elder justice and diversity. A total of eight publications were identified.

Challenges and Needs

- Elder and Dependent Adult Abuse is an under-reported crime. Within the large cohort of older Californians are underserved groups, including members of ethnic groups, immigrants, LGBTQ, American Indians, and others. While there are commonalities of needs and issues, each underserved group can be characterized by unique needs, challenges, strengths and resources.
- Societal stigma, personal shame or embarrassment are common issues confronting abuse victims. Social isolation, the lack of immediate family and/or community awareness and support coupled with the lack of resources to adequately respond result in a high level of under-reporting.
- The elder justice and legal systems are complex, intimidating and the language used is often confusing. This may lead to fear of, frustration with, and distrust of the processes.
- There are a variety of reasons for an individuals' reluctance to seek out or accept help including:
 - Negative experiences and perceptions about law enforcement. In particular, refugees and immigrants who have witnessed brutality and government corruption may lack confidence in law enforcement.
 - A family's economic and physical survival may depend on the offender.
 - Victims may believe that reporting will contribute to negative or racist stereotypes of their community.

- A community may have its own systems in place for handling problems among members. These include tribal, community, or religious councils.
- Reporting abuse to the police or social service agencies may result in ostracism or dishonor.
- Victims' faith may lead them to accept abuse or neglect as fate or destiny, which cannot or should not be altered.
- Abuse may not be defined as a problem of the individual but a problem of the community, calling for a different response.
- Attitudes about "filial piety" (the belief that adult children are responsible for the care and support of elders) may prevent families from turning to outsiders for help.
- Immigrants may fear that they (or their abusers) will be deported.
- Violence against family members (particularly wives) may not have been illegal or unacceptable in an immigrant family's country of origin.
- In particular, LGBTQ older adults are an at-risk, health disparate and vulnerable population. There is little empirical research available about LGBTQ older adults, particularly transgender older adults and their service needs have not been included in traditional aging research. LGBTQ older adults report elevated suicidal ideation. The forces of ageism and homophobia combine to render older LGBTQ adults invisible.
- The lives of the pre-Stonewall¹ generation (persons born before 1969) are very different from those born after 1969. They are less likely to be "out" resulting in isolation, depression, despair, and fear of being discovered, which, in the past, could have led to jail, loss of employment, and humiliation
- Certain cultural groups are being targeted with affinity frauds. An example includes the "ghost scam" which targets Chinese elders.

Recommendations

- Promote measures that increase familiarity and trust among gate keepers and those who provide outreach. Examples include materials that reflect or foster common and shared language(s), values, and beliefs.
- Increase community awareness and support of diversity issues through media messaging in language(s) and manners familiar to elders at risk. Promising avenues and approaches include: outreach in local, ethnic and neighborhood media, at places of worship and at community events. Explore non-traditional outlets as tele-novellas (soap operas) that address elder abuse and resources.
- Build and maintain active and mutually respectful partnerships between "experts" and grassroots CBOs – sustained (if not increased) funding to support existing on-the-ground resources in diverse at-risk communities.
- Develop studies on minority populations. Approach schools of social work for student studies. Focus on crosscutting systemic issues, including poverty, racism, and ageism.
- Advocate for new public policy and the implementation of existing policies, including promoting and facilitating increased access to services and resource parity for underserved elders; and drafting legislation that allows individuals to "opt out" of solicitations or financial mailings. In addition, track new laws to ensure intent of bills are being maintained (for example: health care facilities must do LGBT sensitivity training for staff).

- Develop and implement culturally appropriate training and education to protect a diverse population.
- Establish a repository of promising practices in training.
- Establish a work group to respond to elder abuse issues and cultural/diversity issues within the elder justice network. The work group could build new alliances and dialogue at state and national levels and could implement a planning process that solicits input from stakeholders, including families)
- Promote federal and state focal points for addressing access and parity issues

Resources

The following highlight additional research initiatives¹ that were described at the *From Practice to Policy: Elder Justice Policy Summit*.

USC-UCLA Roybal Institute Research: *Modeling indicators for decision-making. Results may include indicator systems that are county specific; reliable metrics on elder abuse*. Current project is LA specific with the potential for expansion.

The National Elder Mistreatment Study: Race and Ethnicity Findings. Melba Alexandra Hernandez-Tejada MS, Ananda Amstadter PhD, Wendy Muzzy BS, & Ron Acierno PhD. <http://www.tandfonline.com/doi/abs/10.1080/08946566.2013.770305#.U6g45y8vVJM>.

Addressing the Needs of LGBT Older Adults in San Francisco prepared by the LGBT Aging Policy Task Force in San Francisco and the Institute for Multigenerational Health at the University of Washington in Seattle.

¹ Refers to the Stonewall riots of 1969 that were prompted by a police raid of the Stonewall Inn, a restaurant frequented by gays in the Greenwich Village neighborhood of New York. The spontaneous, violent demonstrations by the gay community is considered to be a watershed moment in the gay liberation movement.

LONG TERM SERVICES AND SUPPORTS

Background

California is embarking on a major transformation of its Long-Term Services and Supports (LTSS) system that will alter the way millions of California's oldest and most vulnerable citizens receive services at home and in long-term care facilities.

New Developments

- Recent developments have posed myriad challenges to safeguarding California's LTSS system. As part of the 2012–13 California budget, the Governor proposed the Coordinated Care Initiative (CCI), which called for providing both medical care and LTSS to seniors and adults with disabilities under a managed care model. Under the initiative, public and private providers, selected by the state, will charge fixed rates for comprehensive medical and LTSS services. Two demonstration projects to test the approach are currently in progress. In one, Community Based Adult Services (CBAS, formerly known as Adult Day Health Care Centers), In Home Support Services (IHSS), the Multipurpose Senior Services Program (MSSP, a case management program for Medicaid beneficiaries), and care in nursing facilities will be provided under managed care plans in 8 counties, with plans to extend the program statewide. The other pilot project, called Cal Mediconnect, provides integrated health and LTSS services to Medicare and MediCal beneficiaries. In addition to these pilot projects, the state has expanded its MediCal program in 28 rural counties. Although these programs hold promise for creating a more seamless system of care, a wide range of implementation problems have arisen, ranging from ensuring proper oversight and rate development for managed care plans, to maintaining continuity of care for beneficiaries, to determining the level of program control granted to plans, to delays in implementation and enrollment.
- Formation of California Collaborative for Long Term Services and Supports, a coalition of statewide organizations serving seniors and persons with disabilities, that meets weekly to exchange information and provide input to the state Legislature and administration about changes in services for seniors and persons with disabilities. The Collaborative is supported by The SCAN Foundation, with staff support provided by the Government Action and Communication Institute.

Challenges and Needs

- Managed Care Organizations (MCOs) participating in new programs have not historically provided Long Term Services and Supports (LTSS) and lack understanding of publicly funded programs. Although extensive efforts are in progress to help them understand CBAS, MSSP, IHSS, and other LTSS programs, they have received less information about elder justice programs, including Adult Protective Services (APS), public guardians, courts, multidisciplinary teams, long term care ombudsmen, forensics centers, legal assistance programs, and consumer and patients' rights advocacy organizations.
- Uncertainties exist as to whether participating MCOs will reduce services, cut provider rates, or discontinue using those community based organizations that have traditionally provided services, choosing instead to contract with proprietary services.
- MCOs lack information about federal Medicaid benefits and protections, which has, in some instances, resulted in unsafe and illegal practices. Elder justice advocates are

increasingly encountering these practices and need education and training to help them respond appropriately. For example, under federal Medicaid laws, nursing homes must hold beneficiaries' beds for seven days when beneficiaries are hospitalized. Lacking information about this "seven day bed hold" requirement, MCOs have failed to pay facilities during members' hospitalizations, resulting in residents' being refused readmission. In addition, once long-term care placements are deemed necessary for Medicaid beneficiaries, they are transitioned out of MCOs. However, this process can take one to two months. In some instances, MCOs have failed to pay facilities during these periods of transition, resulting in residents being discharged inappropriately. Instances in which residents were released into homeless shelters have been reported.

- Confidentiality issues. Long Term Care Ombudsmen, APS, public guardians and other providers of protective services are prohibited from sharing information about abuse with managed care providers without client consent. In contrast, other LTSS providers, including In-Home Supportive Services and Multipurpose Senior Service Program, that have contractual agreements with MCOs, are permitted to share information. This may result in confusion by MCOs, particularly in counties in which a single public entity administers all of these programs. Elder justice professionals will need information and training to help them understand confidentiality restrictions in the new LTSS environment, so that they can provide information and guidance to all of the entities involved.
- Lack of clarity for determining LTSS consumers' capacity to give (or deny) consent to join MCOs, or to accept care, treatment, or placement in long term care facilities.
- EJ providers are increasingly being called upon to provide guidance in capacity assessments and determinations and need guidance and training in doing so as it pertains to the LTSS environment.
- Lack of guidance for surrogate decision makers in making decisions for LTSS consumers with respect to the above. Elder justice advocates need information and guidance in responding to the information needs of these groups.
- Little is known about the extent to which MCOs across the state have implemented policies, procedures, and practices for identifying elder abuse, neglect, exploitation, and self-neglect; making reports; and/or collaborating with elder justice service providers. Elder justice professionals need instruction, guidance, and resources to help them meet the demand for information and training.
- Advocates for long term care residents are encountering situations that require new skills, strategies, and relationships. For example, they are increasingly being called upon to advocate on behalf of residents for patient-centered care in skilled nursing facilities (SNFs), to ensure continuity care and safe discharges, and to avoid evictions during gaps in coverage.
- State Health Insurance and Assistance Programs (SHIPS), which are funded by the federal government to assist Medicare beneficiaries understand their Medicare benefits, are unfamiliar with federal Medicaid benefits, protections, and requirements. As a result, they have been referring beneficiaries to the Department of Health Care Services (DHCS) or EJ programs, including LTC Ombudsman and California Advocates for Nursing Home Reform (CANHR). Coordination among these entities is needed to ensure a consistent and coordinated response.

- EJ advocates have reported that that DHCS Ombudsman, which was established to respond to LTSS problems, has been unresponsive to callers. The wait time, even for voicemail responses, is long and consumers frequently report they are not called back.
- Elder justice advocates have received reports of inconsistencies on the part of CBAS programs and other community based programs in client eligibility determinations.
- Transitions to managed care plans have created new opportunities for fraud. Fraudsters have attempted to sell fraudulent plans, provided misinformation (e.g. telling consumers that they won't be affected by the CCI if they sign up for plans now or that they will be penalized for failure to buy plans even if they have adequate insurance (e.g., Medicare). Elder justice professionals need information about these risks so that they can provide guidance and recourse to clients.
- Elder justice advocates and managed care providers need general information about the following:
 - Information to help them understand each other's programs, including their benefits and limitations, eligibility criteria, operations, chains of command, grievance procedures, patient assessment procedures, and resources and mechanisms for staff training.
 - Protocols for working together closely in interventions for high-risk and difficult clients. First responders, in particular (LTC Ombudsmen, APS, and law enforcement), need responsive points of contact within MCOs to ensure a timely response to abuse reports to ensure client safety and security.
 - Opportunities to work together in care planning (e.g. multidisciplinary teams).
 - Ongoing, timely, and streamlined information to help them understand developments in LTSS and CCI implementation.

Customized training is needed to meet the special needs of specific groups, including the following:

- APS workers need:
 - Information and training to help them determine who is responsible for overseeing care in the managed care environment and clear up jurisdiction issues and confusion (e.g. is APS or managed care plans responsible for coordinating home care?)
- LTC Ombudsmen need:
 - Guidance, assistance, and opportunities to develop relationships with SHIPs, HICAPs, healthcare ombudsmen, and HMOs.
 - New strategies for educating HMOs about protections for Medicaid residents, requirements to pay SNFs during hospitalizations and transitions from Medicare, etc.
 - Information and training about what facilities are/will be part of the new CCI network and how they operate and coordinate 'resident-centered' care
 - Resources to provide information about the new providers and systems
- Legal services providers need:
 - Information and guidance to help them advocate effectively on behalf of seniors & disabled adults for adequate LTSS (including IHSS) with MCOs.
- Managed care personnel need:
 - Ongoing, timely, and streamlined information and training to help them understand mandatory reporting requirements, confidentiality with respect to when APS and LTC Ombudsmen can and cannot share information, and "resident centered care" in

facilities. They need further training in how to identify abuse, neglect, and exploitation; high risk situations; and how to respond appropriately.

Recommendations

1. Actions that can be taken at the local level by EJ advocates, including APS, Ombudsmen, law enforcement, forensics center personnel, legal professionals, and others can take:

- Educate themselves about developments in LTSS by reading materials on www.calduals.org, and other information produced by the National Senior Citizens Law Center website, CEJC, and others.
- Help develop materials on LTSS for their clients using materials developed by the National Senior Citizens Law Center, Harbage Consulting, the SCAN Foundation, and others.
- Conduct webinars/training for staff to help them understand the anticipated changes. When available, participate in webinars and trainings offered by others and encourage trainers to incorporate EJ concerns and resources.
- Develop materials, and webinars and training for staff so they understand the anticipated changes.
- Promote the development of new partnerships to ensure coordination and information sharing through the following:
 - Assist in the development of local stakeholder and advisory groups. CEJC will assist them to do so by identifying opportunities for EJ professionals to participate in local LTSS stakeholder groups, including Regional Coalitions, and providing them with the information they need to provide meaningful input.
 - Promote understanding among LTSS and EJ advocates and professionals about their services, including their eligibility requirements, operations, service delivery and coordination procedures, what they can (and cannot) provide for consumers and other service providers.
 - Collaborate with HICAP programs in their areas to learn their role in educating clients.
 - Meet regularly with health plans to develop relationships. Offering to train MCO staff on elder/dependent adult abuse can provide entre' into the managed care environment.
 - Invite managed care providers to meet with their organizations' staff and other stakeholder groups.
 - Assist in developing outreach plans to inform clients and caregivers about new services in their communities. This includes leveraging existing partnerships to get the word out.
- Advocate on behalf of LTSS clients:
 - Encourage MCOs in their communities to provide "plan option services" (services above and beyond what they are required to offer), including home modifications, home delivered meals, etc., that promote client safety and reduce vulnerability.
 - Encourage allied partners to strengthen or implement service coordination and anti-fraud plans.
 - Advocate for anti-fraud assurances in all plans, MOUs as appropriate, and contracts with health plans and providers.
 - Work hard to be a part of the success!
 - At the state level, elder justice advocacy organizations and individual advocates can:

- Offer their assistance in developing universal assessment tools (that include measures of risk), screening procedures, training to workers, interagency agreements, and resource inventories to health plans, state and county officials, Public Authorities.

2. Urge state entities that oversee LTSS to:

- Develop uniform risk assessment tools (or incorporate risk assessment measures into existing tools) that reflect current understanding of vulnerability to elder abuse, neglect, exploitation, and legal standards of decision-making capacity and consent.
- Provide information and referral resources for reducing vulnerability, including referrals for legal assistance in drafting “safe” advance directives, counseling or mediation to address conflicts related to caregiving, etc..
- Clarify the steps that APS, Ombudsman, law enforcement and others can take to discharge abusive IHSS workers whose clients are incapable of doing so as a result of incapacity, coercion, or undue influence; and prevent them from securing employment with others. Criteria and procedures should also be developed to override clients’ choices when failure to do so poses an unacceptable risk to the person, to others, or to the integrity of the LTSS system.
- Develop information systems to “red flag” abusers (those whose abusive actions have been substantiated by protective service, oversight, or law enforcement entities) and prevent them from gaining employment that endangers others.
- Provide information on training for LTSS consumers and providers on best practices for screening direct care providers.
- Demonstrate accountability.
- Evaluate and measure performance, including consumer-centered service delivery and organizational “readiness.”

Implementation Underway

The following progress has been made toward accomplishing *From Practice to Policy: Elder Justice Policy Summit* recommendations or addressing issues raised during the panel.

- CEJC conducted Elder Justice in the Age of Managed Care webinar to explore the challenges and opportunities that recent and emergent changes to California’s safety net pose to elder justice. Participants further assisted in developing an action plan for apprising elder justice advocates of ongoing developments and opportunities for ensuring that the rights of LTSS consumers are protected
- CEJC produced Educating Elder Justice Professionals About Long Term Services and Supports (LTSS) An Action Plan, with support from The SCAN Foundation.

Resources

“*Long-Term Services and Supports: Beneficiary Protections in a Managed Care Environment.*”

This toolkit, developed by the National Senior Citizens Law Center in partnership with the Disability Rights Education and Defense Fund (DREDF), provides ideas for LTSS beneficiary protection that state advocates can use to push for strong protections in managed LTSS programs. <http://dualsdemoadvocacy.org/consumer-protections/ltss>

Appendix A



CCoA

California Commission on Aging

... a citizens voice within government

Resolution to Establish a Special Joint Committee, Task Force, or Blue-Ribbon Panel on Elder Justice California Elder Justice Policy Summit September 26, 2013

Whereas - Elder and dependent adult abuse and exploitation is a complex problem that ranges from neglect by family caregivers to sophisticated fraud operations involving cyber-predators; and

Whereas - Reports to Adult Protective Services in California increased by 65% between 2001 and 2013; and

Whereas - A 2009 National Institute of Justice study found that 31% of adults over 60 had reported some form of physical mistreatment to police; and

Whereas - The growing rate of vulnerable adult abuse exacts a heavy toll on public resources, with victims four times more likely to be admitted to nursing homes, approximately one in ten elder financial abuse victims turning to Medi-Cal and other social services, and victims 300% more likely to die a premature death; and

Whereas – Despite California’s leadership in innovative policies and practices to combat elder and dependent adult abuse, the state’s response to abuse and exploitation is vastly inadequate as a result of fragmentation, underfunding, and a lack of centralized oversight, leadership and coordination; and

Whereas - California currently lacks mechanisms to take advantage of critical funding opportunities created by the federal Elder Justice Act, thereby limiting the state’s role in shaping federal elder abuse policy and programs; and

Whereas - Advocates and policy makers have taken a piecemeal approach to addressing existing and emerging needs. Bills are presented that have competing and/or conflicting goals and therefore the majority do not pass or present only partial solutions to complex issues; and

Whereas - A bipartisan joint, select or special committee on vulnerable adult abuse and exploitation could address these issues by convening officials from the Administration, the Department of Justice, the Administrative Office of the Courts and the Legislature, together with advocates, experts,

researchers, opinion leaders, and policy analysts to identify and respond to inconsistencies, ambiguities, omissions, and gaps in California's current statutes and craft comprehensive policy options; and

Whereas – The Legislature's understanding and implementation of needed changes to California's statutory framework for elder abuse and exploitation would be enhanced by examination of national research on promising models, practices and recommendations; and

Whereas - Designating such a body to oversee elder justice resource and service development, respond to opportunities for federal funding and provide guidance to counties and the Legislature will place California ahead of the demographic curve; and

Whereas – The convening of the Elder Justice Policy Summit on Sept 26, 2013 in Sacramento demonstrated the commitment of professionals working in all disciplines related to elder justice to identify policy changes that will improve outcomes for victims; and

Therefore, be it resolved, that:

The California Elder Justice Coalition and the California Commission on Aging urge the Speaker of the Assembly, the President Pro Tempore of the Senate, the Minority Leader of the Assembly and the Minority Leader of the State Senate to establish a special joint committee, task force, or blue-ribbon panel and commit necessary resources for its operations for a two-year period to examine the state's laws and regulatory framework for addressing and mitigating elder and dependent adult abuse and exploitation in collaboration with the California Elder Justice Coalition and the California Commission on Aging; and

Be it further resolved that this body work to issue a report identifying statutory, regulatory and programmatic changes necessary enhance statewide, community, and family efforts to prevent abuse and exploitation of older and disabled Californians.

Appendix B

2013 ELDER JUSTICE SUMMIT COMMITMENTS	
Area of Interest:	Commitment made
CEJC Support:	
	Help CEJC build infrastructure, Update Blueprint & launch Membership Drive
	Assist with blueprint updates
	Would love to lend support to the Elder Abuse Blue Ribbon Panel to be established
	CCoA will continue to work with CEJC on the Elder Justice Initiative
	Commit to become a member of CEJC
	Willing to join CEJC as a new member
Systems Coordination/Systems Change:	
	Connect CEJC with U.S. Administration for Community Living Office of Elder Rights & Office of LTC Ombudsman to begin a dialogue on a coordinated approach to deal with elder abuse issues
	Expand Fatality Review / Revitalize fatality review system to include elder abuse via CA AG's Office
	Identify the repository for promising practices and email out
	Pursue collaboration of VA with Azusa Pacific on social work trainees & telehealth methods to provide distance assessment and care mgmt
	Explore idea of incentives for career professionals such as forensic accountants that are in demand on the law enforcement side
	Commit to expanding systemic understanding of elder abuse/exploitation, even by seniors
	Would love to lend support to the Elder Abuse Blue Ribbon Panel to be established
	Do more community coordination
APS/Forensic models/Financial Abuse & FASTS	
	Review APS practices, policies, and training to work with agency and consumers to develop standardized policy or legislation to address need for systemic improvements
	Advocate for increased resources for protective services, specifically by serving on coordinating council to advocate for increase in funding through realignment for APS and other priorities
	Grow the Forensic Center model & support other communities looking to form a forensic center

	EFPN will seek resources to support existing FASTs and promote the expansion of the community based model
	Work on efforts to seek mandatory training requirements for APS
	Interested in an opportunity to participate in follow-up group discussion
	Support statewide APS Guidelines
	Work with LA County Coroner's office to improve fatality review team in LA
	Continue to track "exotic" scams and disseminate findings to the larger group
LTC Inst. Settings	
	Improve CA's response to institutional elder abuse
	1. Complete homework to improve CA's response to institutional elder abuse 2. Participate on special joint committees with CEJC
	Develop a short guide for responders in facility settings i.e. who does what/contact info/jurisdiction
Caregivers	
	Continue to work with the Summit Caregiving workgroup to develop policy plans
	UCI will host teleconference calls to continue discussions/work with Summit Caregiver group
	Work on a tag line for CCoA that reflects family values
	Conduct 3-hour training on family caregiver stress burden
	Commit to integrating the caregiver assessment discussion into UCI's Caregiver focus groups funded by Archstone; Disseminate research information to people
	Learn more about caregivers
	1. Participate in Summit generated workgroup on caregiver assessments policy development & Intervention. 2. Research assessments of caregiver program in MN to increase knowledge o educate self and others. 3. Distribute summit materials to faculty and students, providing brown bag on topics with emphasis on caregivers at risk, factors - assessment.
	Use the AARP National Resources to develop a national campaign about caregiver supports and best practices for other states to use.
	Would like to continue to work with the Summit's caregiver group. Would love to become more involved in helping with Elder Justice in California in any way possible.
Legal System	
	Expand Senior Peer Counseling program availability (County MH) in courts for court assist.
	Look into technological methods for expanding legal services.
	MDT education for judges/courts

	Look at partnerships between courts and public health in assisting elders
	Partner with private bar to do pro bono representation of low/middle income clients who are victims of elder financial abuse & exploitation. Encourage cross referral of civil financial abuse cases to be prosecuted criminally
	Talk to presiding Judge about creating Skype or other virtual court sites available for seniors who cannot travel to Martinez for their court hearings (Contra Costa County)
	Look at community courts in L.A.; Outreach with others re: training
	1. Get involved with other groups to leverage resources; 2. Look into how we can provide more training for law enforcement regarding elder and financial abuse; 3. Look into securing more funding streams for APS/Ombudsman
Access&Parity	
	I would like to see a definite "Tribal" component to program development based on facts, in CA, # of tribes, # of Native Americans in CA. Important factor to consider in setting up these programs
	Explore what outreach there has been about LGBT no longer being designation for mental illness? Are seniors going into institutions with the fear of being "out" and designated as mentally ill?
	1. Be involved in a needs assessment/recommendations "working group" to improve access to parity. 2. Be available to support legislative advocacy. 3. Do outreach/education presentations. 4. Facilitate increased access & parity, particularly increased language access and cultural competency to underserved elders in diverse populations (i.e. New immigrants of color, poor, LGBT, etc). Volunteer to be part of a working group to identify successful existing collaborations of local CBOs, government agencies, first responders and educators, community groups and media who are educating/responding to successfully respond to elder abuse issues & increase effective education & awareness
	1. Help create cultural sensitivity training to improve service delivery i.e. participate in a needs assessment/recommendations work group; 2. I want to do more outreach to service providers; 3. I will plan to extend networking services
LTSS	
	Bet Tzedek Legal Services will advocate on behalf of seniors & disabled for adequate LTSS (including IHSS) when managed care takes over for duals under CCI
	Attend County Regional Coalition on LTSS in Stanislaus County

	Work with Bobbie Welling on the issue of including Public Health Nursing in the Elder Justice Coalition
	Ensure our local health plans receive training on elder and dependent abuse
	LTSS workgroup - managed care
	Follow up with Amber Cutler about problematic managed care practices I've seen in the CBAS program recently
Legislation	
	1. Draft Legislation. 2. I.D. members to author them. 3. Collaborate more with new contacts.
	Contact Consumer Financial Protection Group to see if we can pass a law allowing easy opt-out of all credit card offers and bank loan solicitations for people over 65
	VOCA Victim Assistance: Raise awareness; Formula grant comments being requested
	CCoA will sponsor legislation to make Elder & Dependent Financial Abuse victims eligible for assistance through Victim's Compensation Board (VOCA)
	Work towards increasing training for APS workers by getting legislature to increase budget for that training
	Work on efforts to seek mandatory training requirements for APS
	Research & write legislation to clear program roadblocks
	UCI will create an Elder Abuse White Paper that provides background on Elder Abuse for legislators and will send to all CA legislators
	1. View legislation in this area with different view & knowledge 2. Do some site visits in San Diego 3. Learn more about the services that are available in the state
	1. Continue to educate myself on the issues; 2. Engage with community organizations serving the elderly; 3. Research possible legislative solutions & policy
	1. Have a better understanding of all the key players in preventing elder abuse 2. Stay in touch with current contacts and expand to new ones 3. Present some of today's ideas to my assembly member
	1. I plan to reach out to others in the field to better understand aging & long-term care issues. 2. plan to complete my homework for the breakout session regarding improving CA's response to institutional elder abuse. 3. I will reach out to contacts to let them know about some of the issues that were discussed today to see if I can provide solutions. For example, I can reach out to professional contacts to apply for some of the vacancies at the CA DOJ.
	More Legislative Proposals
	Work to advocate for increased \$s for ombudsman and APS

	Consistency in code/statute; Legislative report nursing home deaths to Ombudsman
	I will work with legislators to propose legislation on elder justice consistent with ideas proposed at this meeting
Education/Outreach	
	Delivery education for judges/courts that has a multidisciplinary focus; systems
	Work with Dr. Osterweil on training for Ombudsman
	1. Develop training for staff that intersects with family caregivers, Conduct 3-hour training on family cg stress burden 2. Develop standardized family caregiver assessment to determine risk for abusive behavior. 3. Increase funding to support programs that address the needs of family caregivers.
	Work towards increasing training for APS workers by getting legislature to increase budget for that training
	Work on efforts to seek mandatory training requirements for APS
	Share data and information with S.F. Hospital Council, Department Public Health, community organizations in SFO CC
	Assist in training to law enforcement about all aspects of elder abuse
	1. Will use our website to assist with communication and info exchange across disciplines. 2. Will disseminate our translational research findings more widely to law enforcement, APS, and other stakeholder groups
	Expand education into greater interdisciplinary areas
	1. Reach out and collaborate with EJ Summit participants. 2. Share information I learned at Summit with my agency. 3. Educate myself about all issues I learned about.
	Continue to do outreach to media about elder financial abuse and connect journalists to experts who attended today's summit
Research/Data Collection	
	Research "exotic" scams and disseminate info to the larger group; commit to dreaming up legislative fixes
	Explore methods of data collection on Elder Abuse/Exploitation crimes
	Research Conservatorship laws to see if there is an avenue to protect elder's basic living expenses - even from conservators
	Do more education on elder abuse
	Will distribute our RFP (request for proposal) through channels that will reach researchers in the field of elder abuse
Unassigned commitments/no names	
	I will share information on elder abuse in institutions with my

	agency
	Participate on summit generated group on caregiver assessment; develop recommendations for policy/legislation
	Share and educate agency about elder justice!
	Work towards educating the LGBT cohort on LTSS and Abuse & Neglect interventions & accessing services
	I will learn more about the statistics related to elder justice and share them with others
	All agencies form a collaborative partnership with the elder financial protection network to escalate education to seniors on how to protect themselves from financial exploitation
	I will commit to outreach to our senior population to bring their voices into elder justice issues. It is their lives we are affecting with our actions
	Follow up with breakout group via a telephone conference call. Seek out SCAN support group in Orange County
	Bring back suggestions for improvement to my agency so that it can be shared with others and be utilized to make positive and effective changes
	I will bring the CCoA all legislation pertaining to elder abuse for consideration and support