



Improving California's Response to Elder Abuse, Neglect, and Exploitation

A BLUEPRINT (EXECUTIVE SUMMARY)



April 2011
California Elder Justice Workgroup

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For more information on CEJW and the Blueprint, visit the CEJW wiki site at <https://cejw.pbworks.com>

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Executive Summary

This Blueprint reflects the work of the California Elder Justice Workgroup, which was launched in October 2009 by participants in the Archstone Foundation's Elder Abuse and Neglect Initiative¹. They formed the group to discuss challenges to their work that require systemic change and advocacy to address. With an 18-month grant from the Archstone Foundation, the Workgroup's 12-member Steering Committee planned and oversaw a statewide summit in April 2010, during which 92 professionals from diverse disciplines discussed problems, formulated recommendations, and made commitments to participate in follow-up activities. Other input to the Blueprint came from a Technical Advisory Group of experts, researchers, and advocates within and beyond California (see Appendices), an environmental scan of relevant literature, and discussions with individuals and advocacy organizations (see Appendices). Surveys were also conducted with Adult Protective Services workers (APS), Long Term Care Ombudsman program personnel (Ombudsmen) and law enforcement officials. The Blueprint addresses needs and recommendations in 11 areas and proposes a statewide advocacy plan. CEJW was administered by the University of California, Irvine Center of Excellence on Elder Abuse and Neglect.

NEEDS and RECOMMENDATIONS

► ISSUE 1: **California's Abuse Reporting and Response System**

Under California's elder and dependent adult abuse reporting laws, certain individuals are mandated to report elder abuse and neglect. Although multiple agencies are involved, the primary three responders are APS, Ombudsmen, and law enforcement. Widespread variations in how cases are responded to statewide, lack of coordination among responding agencies, inconsistent enforcement, lack of guidance to counties, and lack of effective mechanisms for routing reports and using reporting data are among the factors that limit the system's effectiveness.

► RECOMMENDATION 1: **Ensure a comprehensive uniform response to abuse reports.**

ACTION STEPS

- Assemble a workgroup of state agency representatives, policy analysts, and stakeholders to review California's reporting policy and identify the need for clarification, enforcement, and reform;
- Assign a state entity to issue updates and guidance on reporting policy;
- Restore the Attorney General's statewide toll-free hot-line to direct in-state and out-of-state callers to county agencies that accept reports and conduct investigations;

¹The Archstone Foundation provided \$8 million over a five-year period (January 2006 through December 2010) to improve the quality and coordination of elder abuse and neglect services in the State. Eighteen projects developed training, multidisciplinary teams, forensics centers, and service innovations (Mosqueda et al., 2010). For more on the Initiative, see the Archstone Foundation's Web site at www.archstone.org.

- Develop a standardized risk assessment instrument for statewide use;
- Establish a centralized repository to collect reporting data and issue routine reports;
- Explore the need for an abuser registry; and
- Encourage state agencies involved in reporting to appoint point persons to respond to needs and inquiries, and provide liaison to other departments.

► ISSUE 2: **The Justice System’s Response**

California has led the nation in developing statutory and procedural innovations to strengthen the justice system’s response to abuse. Challenges that remain include barriers to communication among courts and legal professionals, lack of sufficient oversight of legal instruments such as powers of attorney, lack of legal assistance and advocacy for seniors with limited assets, the need for forensics expertise, lack of guidance and training to justice system professionals in key areas (including the impact of diminished mental capacity on legal decision-making, financial abuse, and abuse in long-term care facilities), inconsistent enforcement of laws and regulations, and low rates of prosecution and asset and restitution recovery.

► RECOMMENDATION 2: **Ensure justice for California seniors.**

ACTION STEPS

- Assemble a workgroup of civil and criminal justice professionals, the Administrative Offices of the Court, the Attorney General’s Office, and legal experts to address legal system needs;
- Promote coordination and collaboration among legal professionals in the criminal and civil justice systems, including senior legal assistance programs and private attorneys;
- Promote the development of elder protection courts to handle criminal, civil, domestic violence, consumer, and family law cases involving seniors and develop linkages with behavioral courts and social services;
- Promote the development of forensics expertise that can be used to build legal cases, design best practice models and standards, and guide training and interventions;
- Enhance protections for conservatorships, powers of attorney, civil restraining orders, and other legal instruments;
- Explore ways to increase prosecution rates and the recovery of losses and restitution;
- Restore funding to the statewide Senior Legal Hotline and legal assistance programs;
- Develop a statewide database of civil and criminal cases to increase understanding of legal case outcomes and facilitate the sharing of knowledge and resources;
- Develop training for legal professionals; and
- Promote coordination between the Attorney General’s Bureau of Medi-Cal Fraud and Elder Abuse and community resources, including forensics centers, financial abuse specialist teams (FASTs), death review teams, and multidisciplinary teams.

► ISSUE 3: **Meeting Service Needs**

Seniors, their caregivers, and abusers may need services to reduce risk, stop abuse, treat its effects, and aid recovery. The demand for services exceeds the supply and will continue to, particularly in a time of limited resources and with the prospect of additional funding cuts. Other challenges to service delivery include barriers to coordination; lack of screening and assessment tools to identify problems early and ensure that elders are referred to appropriate services; barriers that prevent seniors from accessing mental health, victim assistance, domestic violence, and other services; and lack of evidence-based practice models to guide service development.

► RECOMMENDATION 3: **Develop a state plan for meeting service needs.**

ACTION STEPS

Develop a comprehensive state plan for elder abuse prevention services that sets goals and priorities for multiple agencies and networks. This Blueprint provides the basis for the plan by identifying areas of need. The plan should:

- Address critical areas of need, including legal and mental health services, and underserved groups, including victims of financial crimes and exploitation;
- Focus on restoring effective programs that have been cut and improving access by seniors to mental health, victim assistance, and domestic violence services;
- Emphasize prevention as well as treatment and sanctions;
- Improve assessment and remove barriers to coordination; and
- Promote evidence-based practice while recognizing that there are few abuse prevention services whose effectiveness have yet been tested.

► ISSUE 4: **Financial Abuse and Exploitation**

Elder financial abuse and exploitation, which ranges from the misuse of legal documents to predatory lending, can result in the loss of homes, life savings, and independence; and lead to mental health problems. Among the challenges to preventing, investigating, prosecuting, and mitigating the impact of financial abuse are:

- Barriers to accessing evidence from financial institutions;
- Inadequate screening of employees, volunteers, and presenters at educational events;
- Misperceptions about financial abuse that discourage reporting and response;
- Lack of understanding of the role of diminished mental capacity and undue influence;
- Predators change tactics;
- Lack of clarity with respect to jurisdiction;
- Lack of coordination among agencies charged with responding;
- Lack of forensics expertise; and
- Lack of training.

► RECOMMENDATION 4: **Improve California’s response to financial abuse.**

ACTION STEPS

- Strengthen state and federal protections against financial abuse and exploitation;
- Block predators’ access to seniors through such means as requiring senior centers to screen persons making presentations;
- Advocate for mental health, legal assistance, and advocacy services for victims (including advocacy with creditors and help seeking restitution and compensation);
- Advocate for a special Elder Abuse Unit in the Attorney General’s Office to prosecute cases involving multi-jurisdictional consumer fraud, mortgage fraud, scams, transient family crimes, predatory lending, Internet lures, and fraud by contractors;
- Expand financial abuse specialist teams to address new and a broader range of crimes;
- Promote the development of innovations and forensics expertise including a tool to assess financial decision-making capacity and software programs to help financial institutions detect abuse before assets are depleted;

- Improve restitution recovery and access to victim compensation and assistance;
- Explore the role financial institutions can play in abuse investigations and preventing losses;
- Develop mental health, legal, and advocacy services for financial abuse victims; and
- Promote public awareness campaigns that counter misperceptions about financial abuse (and blame victims) and raise awareness about scams and predatory tactics.

► ISSUE 5: Abuse and Neglect in Long-Term Care Facilities

California's response to abuse in facilities has come under intense scrutiny in the last two years. Severe cuts to Ombudsmen and Operation Guardians, barriers to cross reporting by investigators, the rapid proliferation of residential care facilities, lack of regulation and oversight; lack of forensics expertise specific to facilities, and lack of training are among the critical concerns that have been raised.

► RECOMMENDATION 5: Improve the response to abuse in long-term care facilities.

ACTION STEPS

- Address conflicts of interest resulting from Ombudsmen's state and federal mandates;
- Ensure that crimes in facilities are reported and investigated regardless of whether victims are able or willing to give consent;
- Enhance training for Ombudsmen, law enforcement, prosecutors, and facilities staff;
- Advocate for federal regulation of residential care facilities and enforce state laws; and
- Develop forensics research and expertise specific to abuse in facilities.



► ISSUE 6: **Safeguarding the Community-Based Long-Term Care Network**

The Community-Based Long-Term Care (CBLTC) network was designed to enable people with chronic disabling conditions to remain in their homes through the provision of attendant care, transportation, home delivered meals, support for caregivers, discharge planning for elders transitioning from facilities, and other in-home services. Devastating cuts to these services, developments such as the Olmstead decision² that have led to increasingly frail elders living at home, a critical shortage of in-home care workers, and barriers to screening and monitoring workers have rendered elders increasingly vulnerable and highlighted the importance of safeguarding the CBLTC network as a key abuse prevention strategy.

► RECOMMENDATION 6: **Strengthen and safeguard the Community-Based Long-Term Care network.**

ACTION STEPS

- Promote collaboration between the elder abuse and CBLTC networks to advocate for restoring CBLTC services and incorporating enhanced protections;
- Create simple risk assessment screening tools that can be used by CBLTC providers;
- Advocate for enlarging the CBLTC workforce by ensuring a living wage and protections to workers;
- Convene a state taskforce to develop a plan for screening workers that includes criminal background checks, systems to flag disqualifying crimes committed after hiring, and cross-reporting by regulatory agencies to prevent abusers from moving between systems of care; and
- Improve transitions from long-term care facilities and promote discharge planning that focuses on both patients' and caregivers' needs.

► ISSUE 7: **Ensuring Access and Parity**

Elderly members of groups that have historically been deprived of opportunities or are faced with the challenges of life in a new culture face health and economic disparities that heighten the risk of elder abuse and neglect. Many encounter barriers to help. As a result of political decisions by the federal government (including relocation programs aimed at assimilation in the 1950's and 1960's), California has the highest population of Indians of any state. Tribes need special information, technical assistance, and resources to respond to abuse and neglect.

► RECOMMENDATION 7: **Ensure that all California seniors have access to justice and protective services.**

ACTION STEPS

- Promote studies to understand the service needs of underserved groups and identify disparities in access to services;
- Advocate for equal access, parity, and non-discriminatory practices (e.g., the strict enforcement of anti-discrimination consumer laws that ensure all elders fair access to legitimate loans and products);
- Promote outreach, training, and services that target underserved communities; and
- Provide training and technical assistance to help tribes track abuse, assess service needs on reservations and in urban areas, pilot and evaluate programs, educate service providers and tribal leaders about seniors' needs, and explore tribal elder protection codes and teams.

² A Supreme Court case brought by two Georgia women who were living in state-run institutions even though professionals had determined that they could be appropriately served in community settings. The plaintiffs charged that continued institutionalization was a violation of their rights under the Americans with Disabilities Act (ADA). The court ruled in their favor, affirming that unjustified isolation constitutes discrimination based on disability. In response, the Department of Health and Human Services directed states to increase their efforts to enable people with disabilities to live in the community and provide them with more opportunities to exercise informed choice.

► ISSUE 8: **Training**

Although California is a leader in developing innovative approaches to elder abuse training, critical gaps remain. Primary challenges include ensuring that training content is accurate, up-to-date, and consistent across the state; and that training is appropriate for professionals and paraprofessionals with varying levels of education, experience, language competency, contact with elders, and job responsibilities.

► RECOMMENDATION 8: **Ensure that all professionals who work with elders receive training to help them recognize and respond appropriately to elder abuse.**

ACTION STEPS

- Assemble a training/education committee of educators, trainers, representatives from professional associations, experts in elder abuse, and others to develop standardized core content and customized content for professionals and paraprofessionals in various disciplines and work settings;
- Encourage universities, state and community colleges, and technical schools and associations to develop courses and infuse elder abuse content into existing courses;
- Work with the Commission on Police Officers Standards and Training to develop comprehensive law enforcement training that can be used statewide;
- Promote the development of new training by encouraging foundations to support programs, disseminate information about funding opportunities and resources, and provide technical assistance to those interested in developing programs;
- Create a clearinghouse of resources that includes elder abuse competencies for diverse groups, Power Point slides, exercises, quizzes, handouts, and content; and
- Promote the development of training academies for APS and other key groups.

► ISSUE 9: **Policy-Focused Research**

Policy makers, program developers, service providers, and advocates need credible information to guide policy and practice and justify requests for resources. Critical areas of need include studies to explore variations in how policy has been implemented statewide, studies of criminal conduct to guide policy on hiring practices, and analyses of the costs and benefits of services and interventions.

► RECOMMENDATION 9: **Promote research that informs policy and practice.**

ACTION STEPS

- Provide opportunities for researchers, practitioners, and program developers to explore needs, generate hypotheses, and develop research strategies;
- Provide a clearinghouse of research reports;
- Alert researchers to opportunities and resources;
- Provide input to state and national research institutes, academic institutions, and others about informational needs; and
- Assist service programs institute simple measures to demonstrate impact.

➤ ISSUE 10: **Public Awareness**

An informed public is key to elder abuse prevention. Challenges to outreach include lack of agreement about what the “message” should be and understanding about the impact and effectiveness of various messages and approaches.

➤ RECOMMENDATION 10: **Raise public awareness about elder abuse.**

ACTION STEPS

Assemble an outreach committee composed of media specialists, advocates, content experts, and others to explore outreach needs. Recommended approaches include:

- Campaigns that encourage victims and witnesses to report and explicitly help them understand the reporting process, what happens after a report is made, confidentiality and whistleblower protections, and the level of certainty required to make a report;
- Campaigns that provide information about how to lower risk including safe estate plans and instruction in how to screen helpers and avoid scams; and
- Campaigns that counter ageism and misconceptions that prevent victims from seeking or getting help.

➤ ISSUE 11: **National Needs**

Many of the challenges and needs identified by advocates in California require action at the national level. There is currently no federal entity that coordinates the activities of the multiple agencies involved in abuse prevention, sets priorities, provides guidance in interpreting or implementing federal mandates, and responds to the need for new federal policy, research, training, and technical assistance.

➤ RECOMMENDATION 11: **Improve the federal response to elder abuse.**

ACTION STEPS

Advocate for a national plan for elder abuse prevention that elevates the problem to national prominence; establishes priorities for multiple federal programs; strengthens protections; promotes consistency and coordination nationwide; provides for the coordination of research, technical assistance, and training across departments; and provides leadership and guidance to state and local programs. A plan should address the following needs:

- Enhanced federal protections such as policy to regulate residential care facilities and mandating federal employees to report elder abuse;
- Guidance to help stakeholders understand federal laws (e.g., federal restrictions against sharing health information under the Health Insurance Portability and Accountability Act and laws pertaining to information that financial institutions can provide to law enforcement);
- Training, technical assistance, and research to support policy and practice;
- A comprehensive plan for meeting service needs that includes an assessment of existing APS, Ombudsman, legal assistance, victim assistance, mental health, and other services; identifies gaps; establishes goals and benchmarks; and recommends strategies; and
- A national elder abuse research agenda that sets priorities for, and coordinates the activities of, federal agencies that support elder abuse research including the Department of Justice; Center for Disease Control and Prevention; the Centers for Medicare & Medicaid Services; and National Institutes.

► ISSUE 12: **Next Steps: A Plan for California**

Past efforts to improve California’s response to elder abuse have been limited in scope, duration, and representation. A coordinated and comprehensive plan that reflects the needs and perspectives of diverse stakeholders is needed. This Blueprint outlines issues, challenges and needs, and recommendations for future action.

► RECOMMENDATION 12: **Create a broad-based, non-partisan, autonomous, multidisciplinary, and inclusive advocacy network.**

ACTION STEPS

Organize an organization that includes agencies, coalitions, professional and advocacy organizations, and individuals to:

- Develop a plan that builds upon the Blueprint and monitors its implementation;
- Provide opportunities for advocates with both common and divergent points of view to explore common needs, build consensus, and engage in planning and problem solving through summits, consensus conferences, and interactive media;
- Promote coordination among national, state, and local entities;
- Provide a unified voice for California’s elder justice and abuse prevention advocates at legislative hearings, policy forums, and planning events;
- Respond to new and emerging needs;
- Provide information, advice, and technical assistance to policy makers, program developers, and researchers; and
- Collect and disseminate information on policy needs and best practices in policy through Web sites, forums, or other dissemination mechanisms.

