

California Elder Justice Workgroup Environmental Scan

Since the late 1970s, when California hosted one of the first Congressional hearings on elder abuse, there have been multiple hearings, conferences, task forces, and other opportunities for policy makers, practitioners, advocates, and researchers, and other stakeholders to explore the need for new laws, statutory reform, service programs, funding priorities, and research related to policy. Some have specifically addressed elder abuse, while others have explored related issues such as problems with conservatorship. Federal organizations have also explored elder abuse and made recommendations for how states can improve their response.

In order to build upon previous work, the California Elder Justice Workgroup (CEJW) has identified and reviewed reports published in the past as well as documents released as the project progressed. Some were incorporated into the summit background papers to inform small group discussions; others will be referenced in the project blueprint, and final report.

The environmental scan was carried out by the project team with input from CEJW's Steering Committee and Technical Advisory Group (TAG). Requests for potential entries yielded a diverse range of materials; in addition to materials directly related to policy, submissions included research reports, news articles, and reports about pertinent and related issues such as the impact of funding cuts on aging services in the state.

The team developed criteria for inclusion. Other materials of interest to advocates will be listed and made available.

Criteria for inclusion were:

- Addresses needs identified by CEJW personnel, Steering Committee, TAG, summit delegates, and other stakeholders participating the process;
- Contains recommendations for public policy; or
- Reflects a statewide focus or are applicable to statewide policy.

Materials included in the Environmental Scan

1. *Implementing Effective Court Practice for Abused Elders* (2008). Administrative Offices of the Court. A study of promising practices by courts in the state¹.
2. *Recommendation: Donative Transfer Restrictions* (2008). California Law Revision Commission. A report and recommendations about the "prohibited transfers" provisions in the state's Probate code, which deal with undue influence. The Commission studies "defects and anachronisms" in California law and recommends legislation reforms.²
3. *Report and Recommendations of the Probate Conservatorship Task Force* (2008). In January 2006 Chief Justice Ronald M. George established the Probate Conservatorship Task Force to conduct a comprehensive review of the probate conservatorship system in California. During its 18-month term, the task force studied conservatorship practices in jurisdictions within and outside the state and developed recommendations for courts, judicial partners, and the community support system for the protection and benefit of conservatees. The final report includes 85 recommendations, some of which were enacted into law as part of the Omnibus Conservatorship Reform Act. Other recommendations necessitate further study and review, additional funding, changes in legislation or rules of court, and preparation of training materials and guidelines for the courts.³
4. *Improving Access to the San Francisco Superior Court (Probate and Unified Family Courts for Elders)*. (2005). With funding from the Administrative Offices of the Court, the San Francisco Superior court in 2002 conducted project to determine why cases come to court for conservatorship and explore the need for alternatives to conservatorship The report contains recommendations for expanding the range of alternatives to conservatorship in California.

¹ Available at: <http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/EffectiveCourtAbusedEldersMain.pdf>

² Available at: <http://www.clrc.ca.gov/pub/Printed-Reports/REC-L622.pdf>

³ The final report is available at <http://www.courtinfo.ca.gov/jc/documents/reports/120908item10.pdf>

A subsequent report on the status of implementation is available at:
<http://www.courtinfo.ca.gov/jc/documents/reports/102607itemD.pdf>

5. *Guardianship Monitoring: A National Survey of Court Practices*. AARP and the American Bar Association released. Study and blueprint for model practices in guardianship monitoring.
6. *Undue Influence: Definitions and Applications*. (2010). Mary Joy Quinn, Director of Probate Services, San Francisco Superior Court; Eileen Goldman, Consultant; Lisa Nerenberg, Consultant; and Deana Piazza, Supervising Research Analyst California Administrative Offices of the Courts.
7. *Victimized Twice: Abuse of Nursing Home Residents, No Criminal Accountability for Perpetrators*. (2010). Disability Rights California. Examines 12 cases of abuse in California nursing homes by staff and address problems in the criminal justice system response. ⁴
8. *A Day in the Life of APS*. (2010). County Welfare Directors Association.
9. County Of Sacramento Elder Death Review Team 2008 Report. Mark Burstiner, ASO I, EDRT Coordinator, Department of Health and Human Services, Senior and Adult Services Division, Adult Protective Services 4875 Broadway, Sacramento, CA 95820. 916-874-3183 www.edrtsac.org.
10. *Elder Financial Abuse Task Team Report to the California Commission on Aging*. (2005). Richard Ryder. A status report of the work of a “stakeholder task team” organized to assist in the implementation of “Planning for an Aging California Population” (Health and Human Service Agency October 2003). ⁵
11. *Dangerous Caregivers: State Failed to Cross-Check Backgrounds*. (2010). Senate Office of Oversight and Outcomes. This report describes an investigation that discovered cases in which individuals who had lost their nurse assistant certifications because of misconduct in nursing homes had been cleared to work in other licensed facilities. The report and subsequent hearings reveal gaps in how those who work with vulnerable elders are screened and monitored.
12. *CA Elder Abuse Investigators: Ombudsman Shackled By Conflicting Laws and Duties* (2009). Senate Office of Oversight and Outcomes. The report was produced at the request of the California State Assembly Committee on Aging And Long-Term Care

⁴ Available at: <http://www.disabilityrightsca.org/pubs/548801.pdf>

⁵ Available at <http://www.4tacc.org/LRSPA%20Reports/Elder%20Financial%20Abuse.pdf>

(CALTC). The report raised questions about the role of Ombudsmen in investigating reports of abuse in LTC facilities. Following the release of the report, CALTC scheduled a hearing to review the report and recommendations. Members of CEJW's Steering Committee and Reporting Subgroup reviewed the report and began developing a strategy to respond.

13. *Safe at Home? Developing Effective Criminal Background Checks and Other Screening Policies for Home Care Workers.* (2009). Sara Galantowicz, Healthcare and Science Business of Thomson Reuters; Suzanne Crisp, Boston College; and Naomi Karp and Jean Accius, AARP Public Policy Institute (PPI). The report focuses on federal and state approaches to background check screening of home care workers to protect vulnerable adults. AARP commissioned additional research by the National Conference of State Legislatures (NCSL) on state criminal background check requirements for Medicaid-funded home care workers. The report profiles states' laws and includes links to statutory text; and summarizes statutory trends and distinctions. It offers an assessment of practices, policy considerations, and research.

6

14. *Uniform Power of Attorney Act (2006).* National Conference of Commissioners (Conference) on uniform state laws. A national review of state power of attorney legislation revealed growing divergence among states' statutory treatment of powers of attorney. In response, the Conference reviewed state legislative trends and best practices, and crafted the Act.

15. *On The Horizon: The Senior Tsunami An Investigation of Elder Abuse Prevention Services and Programs in Los Angeles County.* Judy Farris-Phares, chair; Luz V. Serrano, Vice Chair; Robert W. Chu; and Fred Medina. This report by the Los Angeles County 2008-2009 Civil Grand Jury, while focusing on Los Angeles, provides information on statewide trends and offers detailed recommendations for actions that counties can take to improve their response to elder abuse.⁷

16. *The Archstone Foundation Elder Abuse & Neglect Initiative.* Special issue of the *Journal of Elder Abuse & Neglect* 22(3-4). Guest editors: Laura Mosqueda, Mary Twomey, Laura Giles, E. Thomas Brewer, George J. Huba, & Lisa A. Melchior.

⁶ Available at <http://assets.aarp.org/rgcenter/ppi/ltc/2009-12.pdf>

⁷ Available at

17. *Criminal Debt: Court Ordered Restitution Amounts Far Exceed Likely Collections For the Crime Victims in Selected Financial Fraud Cases (2005)*. U.S. General Accounting Office (GAO). The report revealed the findings of a study indicating that only 7% of ordered restitution was paid despite the fact that defendants had reported significant wealth or assets prior to their judgments. The report recommends that asset forfeiture measures be taken earlier in investigations and prior to sentencing, and encourages prosecutors to place more pressure on offenders to pay off all restitution and fines prior to sentencing as part of plea agreements. It further calls for aggressive collection and fair distribution of restitution (GAO, 2005).⁸

Other Reports and Publications of Interest

- Bay Area Social Services Consortium (BASSC) “Riding the Wave: Charting the Course of Adult and Aging Services into the Next Decade” (2000).
- Stretched Thin 2008: State Budget Cuts Undermine California's Human Services Programs. (2008). California Budget Project (CBP). This CBP report finds that multiple years of state funding cuts have undermined seven critical human services programs, including programs that help frail seniors live safely in their own homes.⁹
- California Budget Cuts Fray the Long-Term Safety Net (October 2009). UCLA Center for Health Policy Research. Steven P. Wallace, A. E. Benjamin, Valentine M. Villa, Nadereh Pourat. This policy brief examines the likely effects of the sweeping 2009 cuts to California's safety-net programs for low-income and disabled seniors. Specifically, it examines reductions in programs that help disabled seniors remain safely at home, including the Supplemental Security Income, In-Home Supportive Services, Adult Day Health Care and other programs. Among the findings: researchers found that up to half a million seniors will have their incomes reduced by the cuts and tens of thousands will lose some or all of their in-home supportive services. The research is based on program data, published research and interviews

⁸ Available at: <http://www.gao.gov/new.items/d0580.pdf>

⁹ Available at: <http://www.cbp.org/pdfs/2008/StretchedThin2008FINAL.pdf>

with key informants in the health and government services sectors.

<http://new.healthpolicy.ucla.edu/pubs/Publication.aspx?pubID=380>

- Fault Lines in the Shifting Landscape: The Future of Growing Older in California—2010 (November, 1999). Institute for the Future and the Archstone Foundation.
- Health Disparities Among California's Nearly Four Million Low-Income Nonelderly Adult Women (2009). UCLA Center for Health Policy Research. Erin Peckham and Roberta Wyn. <http://www.healthpolicy.ucla.edu/pubs/Publication.aspx?pubID=388+>.
- "100 Communities: Our Voices, 1,000 Ways to Fight Abuse in Indian Communities Campaign.
- Preventing and responding to abuse of elders in Indian country. Lisa Nerenberg, Dave Baldrige and William Benson. (2004)
http://www.ncea.aoa.gov/NCEAroot/Main_Site/pdf/whatnew/abuseindian040707.pdf.
- The Orbitofrontal Cortex, Real-World Decision Making, and Normal Aging Natalie L. Denburg, Catherine A. Cole, Michael Hernandez, Torricia H. Yamada, Daniel Tranel Antoine Bechara, and Robert B. Wallace. Published in final edited form as: *Ann N Y Acad Sci.* 2007 December; 1121: 480–498. Groundbreaking University of Iowa Study showing how changes in the brain can lead seniors to fall prey to deceptive advertising and fraud:
<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2246008/pdf/nihms38390.pdf>.
- National Council on Crime and Delinquency (NCCD). (2010). Structuring decisions in adult protective services. Retrieved April 3, 2010 from http://www.nccd-crc.org/nccd/dnld/Home/Structuring_Decisions_in_Adult_Protective_Services.pdf
- National Council on Aging. (2001). Using the Evidence Based to Promote Healthy Aging. Washington, DC: Administration on Aging.
http://www.healthyagingprograms.org/resources/IssueBrief_1-R_UsingEB.pdf.
- Stein, K. (2007). A Primer on Outcomes-Based Evaluation for Elder Abuse Projects, Programs, and Training. Washington, DC: National Center on Elder Abuse.
http://www.ncea.aoa.gov/NCEAroot/Main_Site/pdf/OutcomesEvaluation_CANE_2007.pdf.
- Substance Abuse and Mental Health Service Administration (2006). Changes to the National Registry of Evidence-Based Programs and Practices (NREPP). Washington,

DC: Department of Health and Human Services.

<http://www.nrepp.samhsa.gov/pdfs/March-2006-FRN.pdf>.

- Subprime Revisited: How Reverse Mortgage Lenders Put Older Homeowners' Equity at Risk. National Consumer Law Center®. Includes a list of recommendations for state and federal policy.

<http://www.consumerlaw.org/reports/content/ReverseMortgages1009.pdf>.