

California Elder Abuse Statewide Summit
Justice Systems
Minutes from April 29-30, 2010 Meeting

Delegates:

Thomas Brewer, Julie Conger, Salena Copeland, Judy Hitchcock, Cheri Hill, Steve Hosking, Marina Jimenez, Danielle Lingle, Laura Mosqueda, Daniel Murphy, Laurinda Ochoa, Jeanne Riecke, Arnold Rosenfield, Dominique Sanz-David, Donna Strobel, Tristan Svare, Deana Piazza, and Denise Watt.

Facilitators: Nancy Rasch, Mary Counihan, and Yolanda Leung.

Presentations:

Presentation 1: Elder Courts

Presenters: Judge Julie Conger, retired, Alameda Elder Court; Laurinda Ochoa, Alameda Deputy District Attorney; and Marina Jimenez, Elder Abuse Victim Consultant, Consumer & Environmental Protection Office, Alameda County

Often, older adults have a difficult time negotiating the traditional court system, and the Elder Court was created to be more sensitive to their special needs. In specialized Elder Courts, the location of the courtroom, the hours the court is in session, and the flexibility of the proceedings are all designed to be responsive to seniors. Besides logistical arrangements geared for seniors, the two major features of an Elder Court are: a judge who understands the many different issues faced by seniors (e.g. undue influence, family, mental health, etc), and an elder case manager to work with older adults who appear in courts as victims, defendants, or respondents. The case manager evaluates the elders' needs and attempts to make referrals to address those needs.

There are two Elder Courts currently operating in California, one in Alameda County and one in Contra Costa County but the practice is gaining momentum. Sonoma and Ventura Counties are working to create Elder Courts for their communities. The calendars heard in Elder Courts vary. In Alameda, criminal cases, restraining orders, and civil matters are heard. Contra Costa has been able to add additional calendars, including probate, because the court is smaller.

This panel discussed the Alameda Elder Court model. Alameda was the first county to create an Elder Court and one of the lessons learned was the importance of bringing together different players and partnership. They started a task force by contacting all senior/elder-related agencies and invited them into the planning process. Through this process they gradually found out how to work together. Alameda is working to expand the partnerships they have. Their newest ones are with mental health caseworkers, drug court services, and probation. One bit of advice to counties creating Elder Courts is to make sure that the Elder Court clerks be cross-trained in the duties of the various courts. Because different courts have

their own way of calendaring cases and taking minutes, it is important that the Elder Court clerks be familiar with them all. Judge Conger suggested uniform Judicial Council forms be developed to address this problem.

Top Issues

The following are the three top issues identified regarding building and sustaining Elder Courts:

- Education of judges, attorneys, court personnel to promote change;
- Legislation; and
- Collaboration.

EDUCATION

Education Recommendation #1: Improve protections of Powers of Attorney

Explore ways to enhance protections of Powers of Attorney, which may include:

- Drawing from existing documents on safeguarding Powers of Attorney, including one that was developed in Maryland, develop materials for California and work with the California State Bar to distribute.

Action Steps:

1. Mary Joy Quinn and Nancy Rasch will meet to prepare a pamphlet and Judy Hitchcock will review it. When finalized, Quinn and Rasch will work with the state bar to disseminate it to state planning attorneys or others.

Education Recommendation #2: Develop training and education for judges and law enforcement

Develop training and education for judges and law enforcement, with specific activities that may include the following:

- Form a work group to explore the training needs of judges. The group will begin by reviewing existing materials and work in progress, including a bench card on elder abuse for judges that was created by the National Center for State Courts and the "pocket guide" for judges currently being developed by the UCI Center of Excellence on Elder Abuse and Neglect;
- Form a work group to develop training materials for law enforcement, including a reference sheet and curriculum. The group will begin by reviewing existing materials.
- Enlist the help of "stakeholders," including the police chief association, etc.) to provide guidance and input and help promote the use of new materials.

Action Steps

1. Form a committee comprising the Administrative Office of the Courts, Judge Conger (ret.), Judge Rosenfield, and UCI Center of Excellence to work on the items related to training the judiciary.

2. Form a committee comprised of Tristan Svare, Cherie Hill, and Steve Hosking to work on the items related to training law enforcement.

The Administrative Office of the Courts will:

3. Create a List Serve to facilitate on-going communication among the participants of this small group regarding Elder Courts.
4. Create a research group for Elders Courts similar to the one they convene on Drug Courts have.

Education Recommendation #3: Revise the Capacity Declaration

Activities to achieve the goal of revising the Capacity Declaration may include:

- The California Medical Association is working to revise the Capacity Declaration Form. Additional feedback and input is needed from other stakeholders;
- Follow up is needed to make sure recommended changes are implemented;
- Physicians need training on how to complete the form, but they have no financial incentive to complete the form or learn how to complete it correctly;
- Using some of the functional evaluation techniques presented by Dr. Marson may be a first step in training physicians; and
- Organizing a group to work on a more comprehensive review of needs related to capacity assessment.

Action Steps

1. Mary Joy Quinn, Laura Mosqueda, and Nancy Rasch agreed to work on the revision of the Capacity Declaration.

Education Recommendation #4: Create a reference guide of alternative solutions to conservatorship

Develop educational materials on alternatives to conservatorship, which include:

- Creating a 1-2 page guide for professionals that lists the alternatives to conservatorship with the pluses and minuses of each option.

Action Steps

1. Dominique Sanz-David, Mary Joy Quinn, and Nancy Rasch will create a guide.

LEGISLATION

Legislation Recommendation #1: Update Penal Code sections on elder abuse

Proposed changes to the Penal Code may include:

- Add “elders and adults with disabilities” to the list of victims whose confidentiality is protected under Penal Code §293.
- Change Penal Code §273.5 to allow law enforcement to arrest suspected elder abuse perpetrators in the absence of physical evidence under the same circumstances as it is presently allowed in domestic violence situations.

Actions Steps

1. Cherie Hill and Tristan Svare will work together to identify the penal code sections that need to be amended and will propose recommended changes.

Legislation Recommendation #2: Monitor Legislation

Monitor legislation regarding elder abuse and neglect and provide education regarding best practices, emerging issues, and victim-centered approaches.

- Track, analyze, and organize support for legislation.

Actions Steps

1. Shirley Krohn currently tracks aging bills, Judy Hitchcock tracks Domestic Violence bills, and Mary Twomey tracks elder abuse. These three will talk once a month to share information on the bills they are tracking track bills.

COLLABORATION

Collaboration Recommendation #1: Improve Collaboration between the justice and mental health systems

Improved collaboration with Mental Health by:

- Promoting coordination between behavioral health (mental health) courts and courts handling elder abuse cases.

Collaborative Recommendation #2: Create a statewide interdisciplinary group to work on elder abuse practice issues

Create a statewide interdisciplinary group to work on elder abuse practice issues

- Coordinate a best practice group to solve problems; and
- Structure group as a professional association, e.g., the Elder Protection Consortium, which meets annually to discuss best practices.

Action Steps

1. Build on the work of CEJW to create these structures.

Collaboration Recommendation #3: Develop Forensic Center expertise

Develop and expand the existing forensic center programs and begin to establish regional forensic center expertise. Opportunities may include:

- Using technology, i.e. video conferencing technology, to share forensic center resources and experts;
- Ask the state's Attorney General to write an opinion about confidentiality and the sharing of information;
- Explore the possibility of a regional Elder Abuse Forensic Center.

Action Steps

1. The UCI Forensic Center can assist those who want to start a Forensic Center in their areas.

2. Tristan Svare will ask the California District Attorneys Association to ask the Attorney General's Office to write an opinion letter about sharing information on elder abuse cases in MDTs.