

California Elder Abuse Statewide Summit
Justice System's Response
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, Denise Watt.

Facilitators

Nancy Rasch, Mary Counihan, and Yolanda Leung

Presentation on Elder Courts

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

Seniors have a difficult time negotiating the traditional court system and the Elder Court was created to be more sensitive to their special needs. The location of the court room, 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: undue influence, family, mental health, etc., and an elder case manager assigned to the court. Any elder who appears in court can be seen by its elder case manager, whether he/she is a victim, defendant, or a respondent. The case manager evaluates the elder's 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 an Elder Court vary. In Alameda criminal cases, restraining orders, and civil matters are heard. Contra Costa has added more calendars, due to smaller court size.

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 case workers, drug court services, and probation. One bit of advice to counties creating Elder Courts was 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

- Education of all the players—change will follow
- Legislation
- Collaboration

EDUCATION

Education Recommendation #1

Improve protections of Powers of Attorney by

- Looking at the Powers of Attorney document from Maryland to determine if it would be useful and applicable in California. If so, take steps through the California State Bar to have it distributed.
- Studying the Powers of Attorney in Probate Code to see if anything there would be helpful

Action Steps

Mary Joy Quinn and Nancy Rasch will meet to prepare a pamphlet and Judy Hitchcock will review it. When finalized, these folks 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

- Form a work group to look at the existing training material for judges (bench card, pocket guide, etc)
- Develop a Bench Card for judges on elder abuse using the model that already exists and tailoring it for California.
- Complete the pocket guide for judges being developed by UCI and Center for Excellence
- Create a guide for CA judiciary
- Form a work group to look at the existing training material for law enforcement
- Create a reference sheet to be carried by law enforcement—adapt existing documents—push for training curriculum already done by Candace Heisler
- Get buy-in from the involved parties (police chief association, etc)

Action Steps

Form a committee comprised of the AOC, Judge Conger, Judge Rosenfield, and (UCI) to work on the items related to training the judiciary.

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

Administrative Office of the Courts will create a List Serve to facilitate on-going communication among the participants of this small group regarding Elder Courts. They will e-mail to everyone at this summit, create a list serve re elder courts, and create a research group for Elders Courts similar the one the Drug Courts have.

Education Recommendation #3

Revise the Capacity Declaration

- The California Medical Association is working to revise the Capacity Declaration Form and they need the input/feedback on the proposed changes
- This group also needs help to make sure these 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 would be a good start to training physicians
- Group to work on a longer-term, more comprehensive fix to this problem system for evaluating and determining capacity

Action Steps

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

Education Recommendation #4

Reference guide for alternative to conservatorship

- Create a 1-2 page guide for use by professionals and others which will list the alternatives to conservatorship with the pluses and minuses of each option.

Action Steps

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

LEGISLATION

Legislation Recommendation #1

Change Penal Codes

- Penal Code 293, confidentiality of victim. Add elders and adults with disabilities to the list of victims whose confidentiality is protected under this code section. change penal code to include elder /victim advocate; propose language to change elder abuse
- Penal Code 273.5 Change this code section 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

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

- Track, analyze, and organize support for legislation

Actions Steps

Shirley Krohn currently tracks aging bills, Judy Hitchcock tracks DV, 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

Improved collaboration with Mental Health

- Involving them more in addressing elder abuse
- Collaborative courts—use some of these principles to improve partnerships

Collaborative Recommendation #2

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

- Coordinate a best practicing group to best deal w/ problem solving
- It would be a professional association, e.g., the Elder Protection Consortium
- Membership organization/workgroup that could meet annually to discuss best practice, advocacy, etc

Action Steps

Start with CEJW as the basis for this concept

Collaboration Recommendation #3

More forensic centers or regional forensic centers

- Use technology, i.e. video conferencing technology, to share forensic center
- Get AG's bill on CDA to be able to "talk" and "share" info; opinion letter
- Explore the possibility of a regional Elder Abuse Forensic Center

Action Steps

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

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.