

California Elder Abuse Statewide Summit
Reporting & Response
Minutes from April 29-30, 2010 Meeting

Delegates:

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Facilitators:

Lori Delagrammatikas, Molly Davies, and Barb Amaro

Presentation #1: An Overview of the Structured Decision Making (SDM) System for Adult Protective Services

Presenter: Kathy Park, National Council of Crime & Delinquency (NCCD)

Key points:

- NCCD has been working with New Hampshire and Riverside County to reduce recidivism and improve consistency in the Adult Protective Services (APS) response to elder and dependent adult abuse by developing a standardized way of assessing risk, safety, and clients' needs.
- The purpose of a standardized response is to increase reliability (the same situations will result in the same decisions); validity (accurate decisions); and equity (will clients receive the same treatment regardless of social or economic status, geographic location, etc). Instruments are based on their utility (are they user-friendly), and efficacy (does it support the work). Structured decision-making uses research, structured tools, and workers expertise.
- The tool is not a stand-alone instrument; rather, it is part of the assessment process. A safety assessment is done first, followed by a strengths and needs assessment, and then the risk assessment. It estimates the probability of future harm (self neglect, abuse and/or neglect by another person) among clients with similar characteristics. It does not yield infallible predictions for individual clients.
- The decision making tool is not a substitute for sound professional judgment. Appropriate use requires that workers understand how risk assessment instruments work and receive training and guidance necessary to employ them effectively.
- The tool:
 - Promotes consistency, validity, and equity in assessment;
 - Provides clarity and helps conceptualize risk;
 - Helps agencies target resources in more effective ways;
 - Reduces recidivism by helping workers direct service to clients most in need;
 - Can help supervisors make more equitable case assignments (workload vs. caseload); and
 - Can help identify where and what types of resources are most needed.

Presentation #2: An Overview of the Structured Decision Making (SDM) System for Adult Protective Services

Presenter: Mark Sellers, County Welfare Directors Association, Protective Services Operations Chair, Riverside County

Key points:

- Riverside APS explored NCCD because they wanted help to improve the consistency of response, meet clients' needs with limited resources, and provide the best, most effective services to clients.
- They further wanted foundational tools aligned with regulation, best practice, and local policy that were research based. The purpose of developing these tools was to provide assistance in determining whether APS would respond, how quickly, who makes the decision, (e.g. the intake worker), and, on what bases are decisions made.
- This tool helped APS staff distinguish between the immediate safety needs and future risks. Before implementation, APS would sometimes determine a report needed an immediate response but later find that there was no imminent need. Conversely, other reports that were deemed non-emergency and assigned a 10-day response time were later found to be emergencies.
- Following implementation, APS referrals were found to be more consistent in terms of response time (immediate 24 hrs, 2-3 days, 10-day response).

Highlights of Discussion of Presentations

- Because counties perform assessments differently, it is confusing to reporters. A possible consequence of this variation in assessments is if reporters do not receive clarity on what will be investigated they may stop reporting to APS. Standards are needed to help agencies and reporters know what they should do in order to share an understanding of the risk involved, (e.g. mandated reporters know when to report and what will happen to their reports.)
- If an APS call is not screened correctly there seems to be a higher recidivism rate.
- In domestic violence situations a prompt response is important because victims are more likely to accept help when it is offered early. Since the tool improves response time determination it means APS will respond to domestic violence cases better.
- Mandated reporters also need a tool to provide guidance in how to respond with step by step instructions (e.g., what do you do if there are obvious injuries?)
- If there was greater consistency between counties it would help improve consistency in data collection and would help with jurisdictional issues.
- Caregivers need risk assessment tools as well.
- Tools help mediate the loss of institutional knowledge with retiring APS workers because decision making is not totally dependent on worker knowledge and experience.

Issues raised by this discussion fall into five subcategories as follows:

1. Consistency;
2. Reporting;
3. Jurisdiction;
4. Ombudsman Issues; and
5. General Issues.

1. Consistency

There is a need for greater consistency in all areas of elder abuse reporting, including:

- APS needs greater consistency within and between counties in terms of their evaluations and responses to abuse;
- Mandated reporters need a clearer understanding of what to report, when, and how to document their concerns (e.g. photograph pressure sores); and
- More consistent data on reports of abuse, how they are handled, and the perpetrators of the abuse.

2. Reporting

Education of Reporters

- Provide on-going outreach and education campaigns. Reports decreased 40% in nursing homes after the last outreach campaign ended.
- Educate reporters about:
 - their duty to report;
 - how to recognize abuse; and
 - how to deal with their fears about reporting.
- Mandated reporters should be required to have annual training. One idea is to include announcements about mandated reporter status to paychecks.
- There is a need to train board and care homes about reporting on a regular basis because of staff turnover. The facilities need to be required to teach mandated reporting and need to be monitored to insure they are doing it.

Communication between Reporters and Agencies

- Improve communication between agencies and with reporters about whether or not a case is being opened.
- Improve communication between agencies and with reporters about what actions have been taken. The California Department of Social Services needs to determine what APS can and cannot share with mandated reporters about case follow-up. Consistency is needed from county to county about what information mandated reporters get back.
- Explore requiring bank tellers to report directly (rather than through banks' legal departments).
- More support from reporters is needed in investigating the reports of abuse.
 - The law does not require the person who makes the report or the facility to be available for follow-up.
 - When the Ombudsman receives reports from board and care homes they would like to receive support from the facility in documenting evidence. They are more familiar with the client (especially photos of private areas, etc).

Strengthening the Laws

- There are low rates of reporting from facilities.
 - Enforcement of provisions for failure to report is inconsistent. Local District Attorneys are not charging for failure to report. A monitoring system needs to be created and enforced. On mandating reporting laws and training. Sometimes it is hard to flush out who failed to report (e.g. was it the CNA, Social Worker, etc).
 - Nursing homes only report those issues that are important to them (they report financial abuse to get their bills paid but fail to report neglect because it doesn't have any benefit for them.)
 - Facilities only report to those agencies that can impose consequences.
- Mandated reporters need to be held accountable for what they know, when they found out, and how they responded. There should be consequences (e.g. loss of professional licenses or fines) for failure to report.
- Mandated reporters should be reporting crimes in facilities to police and Ombudsman (not one or the other.)
- Develop whistleblower protections for mandated reporters.
- Make bankers permanent mandated reports of elder abuse.

Action item- Change the law so that the report comes from a bank teller or from the Skilled Nursing Facility staff rather than from the institution's administration.

3. Jurisdiction

- APS and the Ombudsman Program have some overlapping responsibilities. The boundaries are not clear (e.g. is unclear who has authority when residents in facilities are abused by people from the outside).
- Because multiple agencies may be involved in a facility investigation, a team approach is recommended. In Florida when a nursing home is are put on a watch list, APS, Ombudsman, a representative of the Inspector General and State agencies all work together to coordinate a response.
- One idea is to develop a “one stop shop,” with one central phone number, in order to provide a seamless long-term care system. Should reporters have a central number for all abuse (instead of multiple agencies and numbers?)
- Preventing self-neglect requires safety-net services, including public guardians.
- There is a shortage of nursing home beds.
- APS and case management services need to be better coordinated.
- Funding must be provided to whoever has responsibility for nursing home investigations.
- More communication and guidance from the state is needed for improved consistency.

4. Ombudsman Issues

- The Older Americans Act exposes the Ombudsman Program to underperforming because Ombudsmen are not necessary trained to do forensic work.
- Older Americans Act did not envision the Ombudsman Program to be a 24-hour emergency response. How do you continue to support this mandate?
- The Older Americans Act needs to define roles and responsibilities of other government agencies. The Ombudsman Program utilizes social actions to respond to inaction.
- There are some good models. Florida has a model in which the Ombudsman Program, Licensing staff and Prosecutors go out together to investigate questionable facilities. They respond in teams. There is a willingness to share information. Both parties work as equal players in investigating allegations of elder abuse. Los Angeles uses a team approach to investigate unlicensed facilities.
- APS resources have been enhanced but Ombudsman programs have not received comparable enhancements to conduct investigations.
- The dual role of the Ombudsman as investigators and advocates needs to be addressed.

5. Unmet Needs

- Data on perpetrators.
- More and better geriatric and adult mental health and counseling services.
- Interventions that assist victims heal.
- Long-term care services and supports to prevent self-neglect, including services for family caregivers, In Home Supportive Services, probate resources, and home and community-based placements rather than facility based services. There is a lack of residential beds for low-income individuals (e.g. Social Security Income beneficiaries). There are waiting lists for Public Guardian services.
- Statewide discussion on how to deal with self-neglect and the increasing older adult population.
- A 1-800 number to put people in touch with the right individuals. The service existed but was discontinued due to the lack of funding. Should it be resurrected so that there is one central

number where there are trained professional who can make assessments on where the calls should be directed? Perhaps federal funds might be available through the Elder Justice Act – and it could be a national 24-hour hotline for complaints.

Recommendation #1: Improve the response to elder and dependent adult abuse in California long-term care facilities by:

- Determining the most appropriate agency(s) to respond/investigate to the abuse/neglect allegations;
- Providing adequate funding for the agency(s);
- Providing adequate training for the staff conducting the investigations;
- Addressing the need for both a social service and law enforcement response to abuse; and
- Addressing confidentiality issues with regard to residents' consent to cross report.

Action items:

- 1) Advocate for Senator Alquist to re-schedule the hearing facilitated by the Senate Oversight and Outcomes commissioned report by John Hill.
- 2) Explore changing the mandatory reporting laws to require reporters to report to the Ombudsman program and another entity to be discussed and determined.
- 3) Pilot changes in mandatory reporting law as an Elder Justice Act funded project in a few counties prior to changing the law.
- 4) Improve training for those who investigate abuse in long-term care facilities including: regulatory agencies (Department of Public Health Licensing and Certification & Department of Social Services Community Care Licensing), law enforcement, Ombudsman, & APS.
- 5) Engage regulatory agencies as elder abuse advocates.

Recommendation #2: Remove the federal barriers that currently limit the Ombudsmen's ability to do best interest advocacy for residents who lack capacity to consent and who do not have a legal decision maker.

The Older Americans Act has conflicts related to best interest advocacy for residents who do not have capacity to consent and who do not have a legal decision maker. The Act allows Ombudsmen to access the medical records of residents who lack capacity and do not have legal decision makers and for situations where the legal decision maker is the subject of the complaint. The Act permits full time staff ombudsmen or volunteer ombudsmen with medical training to access records in the previously described circumstances and to even make copies of those records. The Act, however, prohibits disclosure of this information to authorities unless the resident or the legal decision maker consents. . It was highlighted that this is not only an issue for California but is a nation-wide problem. There was strong agreement and consensus on this recommendation from all group members.

Action Item: Change the Older Americans Act to allow the Ombudsman to more fully engage in best interest advocacy by allowing Ombudsmen to disclose the identity of resident and cross report issues that arise when the resident lacks capacity and has no legal representative.

Recommendation #3: Advocate to increase funding for elder abuse investigations, including funding for policy advocacy to ensure there is an adequately funded micro and macro response to elder abuse.

Commitment: The creation of a Long-Term Care Facilities Elder Abuse Task Force that will continue to meet and discuss the issues raised during this session and other issues that arise. The first item for focused attention would be the Ombudsman advocacy vs. elder abuse investigator. Molly Davies, Lori

Delagrammatikas, Joe Rodrigues, Mark Sellers, Benson Nadel, Brooke Hollister, Aileen Wigglesworth, and Kris Brown agreed to continue meeting.

Additional Issues for Future Discussion: Need for a stronger multidisciplinary advocacy for long-term care system in California. The recommendation includes seeking ongoing funding for a long-term care elder abuse task force.