

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

Delegates:

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Facilitators

Lori Delagrammatikis, Molly Davies, and Barb Amaro

Presentation #1: An Overview of the Structured Decision Making (SDM) System for Adult Protective Services –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 APS response to elder and dependent adult abuse by developing a standardized way of assessing risk, safety, and need.
- The purpose of a standardized response was to increase reliability (same situation will result in the same decision), validity (accurate decisions) equity (how does it perform – take in consideration diversity: e.g. social economic, geographical locations, etc), utility (user-friendly), and efficacy (does it support the work). Research, structured tools, and workers expertise are all part of this.
- It is not a stand-alone decision making tool, it is part of the assessment process. A safety assessment is done first, followed by a strengths/needs assessment, and then the risk assessment is done. It estimates the future probability of future harm (self neglect or abuse/neglect by another person) among clients w/ similar characteristics. It does not yield infallible predications for individual clients.
- This tool is NOT a substitute for sound professional judgment. Appropriate use requires that workers understand how risk assessment instrument work and receive training and policy guidance necessary to employ them effectively.
- What it does is:
 - Promotes consistency, validity and equity in assessment
 - Provides clarity and helps conceptualize risk
 - Helps agencies target resources in more effective ways
 - Reducing recidivism by helping workers direct service to clients most in need
 - Can help supervisors make more equitable case assignments (workload vs. caseload)
 - 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 –Mark Sellers, County Welfare Directors Association, Protective Services Operations Chair, Riverside County

Key points:

- The work of NCCD is important to APS because they need help in improving the consistency of response, meeting clients' needs when the program's resources are limited, and providing the best, most effective services to clients.

- APS Riverside wanted foundational tools aligned with regulation, best practice, and local policy that were research based. They wanted help in determining... How quickly should APS respond to each referral, and who makes that decision--the intake worker? On what basis is someone on the phone going to decide if APS needs to respond immediately? What is guiding the decision on when APS responds?
- This tool helped APS staff distinguish between safety and risk. Before implementation APS would sometimes determine a report needed an immediate response but when the worker saw the client there was no imminent need. And conversely other reports were deemed non-emergency and assigned a 10-day response time and when the worker saw the client it was found to be an emergency.
- Then after Safety Assessment Results implementation: Shows a pattern that APS referrals are being assessed correctly. APS workers found more consistency with what the referral calls were indicating (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 is if reporters do not receive clarity on what will be investigated they may stop reporting to APS. Standards are needed to help agencies/reporters know what they should do/share understanding of risk, (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 it is more likely a person will accept help if it is offered as soon as possible after the abuse. Since the tool improves response time determination it means APS will respond to DV cases better.
- Mandated reporters need a guidance tool as well 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:

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

1. Consistency

There is a need for greater consistency across the board—

- in APS more consistency within and between counties in terms of their evaluation and response to abuse,
- with mandated reporters a greater understanding of what to report, when, and how to document their concerns (e.g. photograph pressure sores),
- 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 dropped off 40% in nursing homes after the last outreach campaign ended.
- Educate reporters about
 - their duty to report
 - how to recognize abuse
 - how to deal with their fears about reporting
- Mandated reporters should be required to have annual training. We could staple announcements about “you are a mandated reporter” 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. CDSS needs to tell APS what they can/can't or must tell mandated reporters about how they are handling the case. We need consistency from county to county about what information mandated reporters get back.
- Explore requiring tellers to report directly (rather than through the banks legal department).
- More support from reporters is needed in investigating the reports of abuse.
 - The law doesn't 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.
 - There are no enforcement/consequences for this failure to report. Local District Attorneys are not charging for this crime. A monitoring system needs to be created and enforced on mandating reporting laws/ 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 (what did you know /when did you know about it) and there should be consequences to professional licenses for failure to report and fines.
- Mandated reporters should be reporting crimes in facilities to police AND Ombudsman (not OR.)
- 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 being kicked up to administration.

3. Jurisdiction

- APS and the Ombudsman Program have overlapping responsibilities. The boundaries are not clear. For example, financial abuse of a person in a facility by someone from outside the facility who has jurisdiction?

- 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, Inspector General/ State agencies all come down on them together.
- One stop shop...one phone number...a seamless long-term care system. Should reporters have a central number for ALL abuse (instead of multiple agencies and numbers?)
- Self-neglect needs safety-net services...public guardian, home and community-based cases. Where are we going to put them? There is a shortage of nursing home beds. We need coordination of APS and case management services.
- Funding is an issue if a decision is made turning Ombudsman investigative role over to APS.
- More communication/guidance from the state for improved consistency

4. Ombudsman Issues

- 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?
- Older Americans Act – identify actions/ inactions from other govt. agencies. The Ombudsman Program utilizes social actions to response to inaction.
- There are some good models. Florida has a model in which the Ombudsman Program, Licensing staff and Prosecutors go out together to look at questionable facilities. They go out in teams. There is a willingness to share information. Equal players in investigating allegations of elder abuse. Another model in Los Angeles that looks into unlicensed facilities.
- Enhanced APS services were enacted but there were no enhanced Ombudsman services in response to abuse investigations.
- The dual role of the Ombudsman needs to be addressed.

5. General Issues

- We need more data on perpetrators.
- We need more/ better services (older adult mental health/counseling needs funding)
- There needs to be interventions methods that assist the victim's healing process.
- Self-neglect is a long-term care issue. Long-term care services and supports are needed, e.g., Family Caregivers, In Home Supportive Services, resources around probate, and home and community-based placements rather than facility based. There is a lack of residential beds for low income individuals (e.g. SSI, etc). There are waiting lists for the Public Guardian to step in. There needs to be a statewide discussion on how to deal with this issue and increasing elder population.
- There was a 1-800 number that was successful in putting people in touch with the right individuals but it 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 CA 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 the abuse
- 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 LTC 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 has provisions for how an Ombudsman may access medical records for individuals who lack capacity and do not have a legal decision maker, 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 prohibits disclosure unless the resident or the legal decision maker consents to such a disclosure. The Act does not include provisions for those who lack capacity or a legal decision maker, or for those who lack capacity and their decision maker is the subject of the complaint. It was highlighted that this is not only an issue for California because of our mandatory reporting laws but was a nation-wide problem. As all Ombudsmen are utilized at the very least to identify abuse along with other types of complaints. 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, & Kris Brown agreed to continue meeting.

Parking lot: Need for a stronger multidisciplinary advocacy for long-term care system in CA. Including funding a long-term care elder abuse task force