

Financial Scams to Surveillance Cams: Spotlight on Elder and Adult Abuse
A Joint Hearing of the Assembly Committees on
Public Safety and *Aging and Long-Term Care*
AMMIANO, YAMADA, Chairs
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Good Morning Assembly Members Yamada and Ammiano, and members of the Committees.

My name is Lisa Nerenberg and I'm here today representing the California Elder Justice Workgroup. We very much appreciate the opportunity to be included on today's agenda.

The Workgroup was formally launched in Oct of 2009, although our members began meeting well over a year before that. We were all participants in the Archstone Foundation's Elder Abuse and Neglect Initiative. As you may know, the Foundation funded 18 projects over a 5-year period, which include training programs, the state's 3 forensics centers, a family justice center, Financial Abuse Specialist Teams, and several others. I brought a copy of a special issue of the *Journal of Elder Abuse & Neglect* that profiles the EANI, which I will leave with you.

In addition to supporting these very innovative programs, the Foundation recognized the power in bringing together service providers to share their insights and experiences. We met three times a year, and it was during one of these meetings that were divided into small groups. One, which I participated in, focused on systems' barriers.

Our discussions drew directly from our work. Those of us who were developing training for mandated reporters were frustrated by the variability in how reports were handled across the state and even within counties.

For example, Lori Delagrammatikus of Project Master, which trains APS workers, developed a test to measure trainees' understanding of their reporting duties. When she ran it by APS experts to see if everyone agreed on the "right answers," they discovered astonishing disagreement. Here we had a wonderful opportunity to train APS workers and mandated reporters but couldn't agree on how the *system* was supposed to work.

There were other examples of *systems* problems. Some mandated reporters weren't reporting. Some responders weren't responding. There was also confusion about cross reporting. The reporting law wasn't enforced consistently. And despite the law's

whistleblower protections, some of us were hearing from those we trained about mandated reporters who'd been fired or threatened with being fired for making reports.

Financial Abuse Specialist Teams and forensics centers weren't clear about what information they could legally share and what was subject to discovery.

We heard from one member of our group, Shawna Reeves, that senior centers, a trusted source of information for seniors, were in fact allowing vendors, or in some cases, scammers, to make presentations under the guise of being objective financial educators.

As you know, it's extremely difficult to help victims once they've been scammed or lost homes. And very disturbing to discover that our own service network was facilitating abuse.

Once we started discussing obstacles, it was hard to stop and we continued to meet by phone. Because the same issues seem to come up repeatedly, and had been for years, we decided to archive them. So we started a list. We also talked about solutions and listed them in a second column. Later we added a third for recommendations. The list became a chart that later formed the basis of a blueprint.

In 2009, we received a grant from the Archstone Foundation to work with the Center on Excellence in Elder Abuse at the University of California, Irvine to host a summit. The grant also provided for the development of the blueprint.

It was then that we launched California Elder Justice Workgroup. It's been my pleasure to work with the group, whose members are listed on your handout. What I think is exceptional about the group isn't just the range of expertise, but that our members have deep roots in multiple networks, including adult protective services, mental health, long term care, legal aide and consumer rights. They understand the intricacies of many systems and have deep ties and affiliations.

We were delighted that you were able to join us at the summit, Assembly member Yamada, as was Kathy Greenlee, the Assistant Secretary of Aging. During the event, 92 health and social service providers, legal professionals, educators, and researchers from a wide range of disciplines worked together to explore areas of need. Perhaps the most exciting session was when Betty Malks of the Protecting our Elders Project led us in a session where delegates made commitments to work together.

Following the summit, we continued our work, meeting with professional associations, advocacy groups, the California Dept on Aging, and many others. We also identified past reports and recommendations and incorporated into our blueprint those that are still relevant.

The final blueprint, which is now in production, weighs in at 90 pages. You have copies of an executive summary. It's still really just a beginning, and we hope that it will be a "living document," subject to updating and refinements as we move forward.

It's our hope that this Committee, foundations, program developers, schools, and others will use the blueprint to guide their work in elder abuse. It's gratifying that opportunities are already presenting. Earlier this month, we drew from the blueprint in making recommendations to our new Attorney General through her "Smart on Crime" Committees." As part of that initiative, NAPA District Attorney Gary Lieberstein chaired an elder abuse committee, which included several of today's presenters including Paul Greenwood, Tristan Svare, and Mark Zahner.

In the few minutes I have today, I'd like to highlight just a few of the areas we address in the blueprint that are of particular relevance to this body.

We focused on mandatory reporting, which is the foundation of our system. I've already mentioned the lack of consistency, which stems from the decentralized approach we have in California. Whereas other states are much more actively involved in the day-to-day operations of local APS programs, our APS programs operate relatively autonomously. Many do an excellent job. But it's my understanding that in recent years, as a result of cuts, the Department of Social Services has had to relinquish even such basic functions as sending routine updates on policies and procedures to local programs and are not able to respond to requests for guidance.

The Protective Services Operations Committee of the County Welfare Directors Assoc (PSOC) has provided leadership, but PSOC relies on its member APS programs to support its efforts and as a result of *local* cuts, isn't always able to provide representatives to important forums like today's hearing. Members of our Steering Committee were disappointed to hear that there wouldn't be representatives from these very important entities at this hearing: state-level APS or the PSOC leadership. We hope that they will be included in future forums.

Other needs related to reporting include the need for a statewide toll-free number to ensure that cases that are reported get routed to the right community.

We lack standardized assessment tools and effective systems for collecting aggregate information from the multiple entities that respond to reports, which could provide crucial feedback about the scope and nature of the problem. It could show us if what we're doing is working.

We also focused on abuse in facilities and many of the problems we discussed are being addressed today. Our work was also informed by two excellent reports by the California Senate Office of Oversight and Outcomes and the Disability Rights California, Investigations Unit.

As you know, under the Older American's Act, Ombudsmen serve as patient advocates. They're the voice of residents. To effectively perform that role, they have to have the trust of those they serve, which includes confidential relationships.

But California also designated Ombudsmen as investigators. Some believe these two roles, as advocate and investigator are incompatible.

And, because many residents are either unwilling or unable to give Ombudsmen permission to report crimes against them, we know that some crimes in facilities are never reported, investigated, or prosecuted.

That's unacceptable. Victims in our communities don't call the shots in deciding whether crimes are reported. Residents in facilities shouldn't bear that burden either.

But while there's general agreement that crime in facilities can't be tolerated, there's no clear consensus on the solution. Many in our network support your bill, AB 40, which would require that crimes in facilities be reported to both Ombudsmen *and* law enforcement. Others suggest we follow the lead of other states where APS investigates, freeing Ombudsmen up to focus on advocacy.

But let's be clear, there is no easy fix for this problem. Whatever approach we adopt, it's going to require resources. As Mark Zahner and Peggy Osborn will tell you, I'm sure, cases of abuse in facilities are not easy to investigate or prosecute. Preparing APS or law enforcement to respond effectively is an enormous task.

I believe that California is up to the task. We already have many of the key ingredients. Operation Guardians has been a national model. Our forensics centers are doing groundbreaking work in medical forensics, including studies of bruising and pressure ulcers. Elder death review teams are another important source of expertise.

Some of the work that's needed has already begun:

- Following our summit, State Ombudsman Joe Rodriguez and LA Ombudsman Molly Davis began meeting with APS leaders and researchers from UCSF and UCI to continue the discussion. They're working on local protocols and MOUs that can be used to coordinate reporting at the local level.
- PSOC has assigned a "consistency committee" to explore variations in how county APS programs handle cases.
- Riverside county explored a risk assessment tool that's being used in other states.
- Project Master at UC San Diego and the Bay Area Academy at SF State are working with state and national leaders to develop comprehensive training for APS, which they hope will set the stage for a state APS academy.

Many institutions and programs have stepped up but it isn't enough.

It's our *state* that entrusts institutions to carry out the critical reporting mandate. These institutions need *state support and guidance* to carry out that mandate professionally and with confidence.

We're hopeful that the newly passed Elder Justice Act will provide opportunities. President Obama's budget contains money for APS. It's a small amount intended to begin building infrastructure. But strong infrastructure is what's needed in California. We're working closely with national partners to ensure that California has a voice in national developments and takes advantage of opportunities that the EJA provides.

The Blueprint also focuses on legal services. As you've heard today, California's civil and criminal laws are also models. And yet, here too improvements are needed.

We know that our legal response is inconsistent across the state.

Elder abuse is addressed in criminal, probate, family, and other civil codes, and cases may be heard in multiple courts. We need better coordination among these systems and opportunities for those who work in them to learn about each other and work together.

We need to help victims navigate these systems and to get legal assistance.

Our state senior legal services hotline, another critical component in the state system, has lost the funding it needs to ensure that seniors in need have access to legal services.

We lack adequate protections against abuses committed using legal instruments like powers of attorney and trusts. We don't have enough public guardians or legal help for victim with limited assets.

But here again, California is endowed with enormous resources.

We are very fortunate to have talented prosecutors like those who presented today.

Innovators like Judges Julie Conger and her colleagues have led the way in creating elder protection courts to make courts more accessible to seniors. They're building linkages to community agencies, collaborating with behavioral courts to address the mental health needs of victims and perpetrators, and seeing to it that victims receive restitution.

Individuals have also stepped up. Following our summit, Delegates Steve Reiss, a private attorney, and Helen Karr from the SF DA's office drafted an ingenious manual to help professionals in the civil and criminal systems better understand each other's work.

The need for law enforcement training was a recurrent theme in our discussions, and in response, Mary Coughlin and Molly Davis, building on earlier work in Napa County, conducted a survey that yielded feedback from 46 officers.

I've already mentioned the need for training in how to investigate abuse in long term care facilities. The law enforcement community also asked for training in financial abuse.

- The most pressing need they identified was training in how to work with financial institutions to get critical evidence and prevent losses.
- But once again, before we can offer effective training, we need to make sure that we have adequate laws in place. We've started working with Jenefer Duane of the Elder Financial Protection Network, which works closely with financial institutions on abuse issues, to look at both state and federal laws related to securing information and assets.

We're really pleased that POST is here today. POST has sponsored many excellent trainings in elder abuse. But the scope and complexity of the topic and the enormous number of officers we need to reach calls for comprehensive approaches. We would welcome the opportunity to work with you. Retired prosecutor Candace Heisler and I developed a comprehensive law enforcement curriculum for the federal government that could be drawn from.

The blueprint also addresses the need for services for victims.

One particularly critical area of need is for services for financial crime victims, who may need legal help to stop the abuse and recover assets, and advocacy with creditors and to collect restitution. Many victims need mental health services to address the devastating effects of losing homes, life savings, or their independence.

One strategy we've employed is to ensure that our network is accessing existing resources.

Terri Restelli-Deets, a member of our group, and Lin Benjamin of the California Department on Aging have done a terrific job educating our network about opportunities provided by the Mental Health Services Act and conversely, informing mental health policy makers about elders' needs. We're also looking at victim compensation and assistance programs.

Our system for keeping dangerous people out of the long term care workforce also desperately needs attentions. Many have called for criminal background checks, which are fundamental. But they're not enough. As the excellent report by the Senate Office of Oversight and Outcomes points out, background checks are just one tool. We also need communication systems so that when someone is fired from a facility or banned from one network, they don't resurface in another because the systems don't communicate and alert each other.

Here again, local communities are taking the lead in finding solutions.

NAPA county for example, developed its own certification process for screening workers.

But here again, state leadership is needed to address the problem. We've recommended a state level task force to bring together stakeholders to address this very complex issue.

Clearly, our agenda is ambitious. But we have a rich talented network to draw from, and many resources that we haven't yet fully explored.

We know that schools have an important role to play.

My involvement with City College of SF in the last few years has alerted me to the huge potential community colleges can play in training law enforcement, fire fighters, emergency medical services providers, and front line health care providers.

Senior Legislator Shirley Krohn is working with schools of social work to develop internships for social work students. Students interested in policy work with members of the senior legislature on aging and elder abuse issues.

We're in frequent contact with colleagues at the William Mitchell School of Law in my home state of Minnesota, which is also home to the Vulnerable Adult Justice Project. The school uses law students to help with state policy development.

Last week I visited Fresno State University, which has a 3-unit course in elder abuse in their criminology department.

In summary, we have much to be proud of in California. We have produced experts, model projects, and statutes. Not only in elder abuse prevention, but in the related disciplines of nursing home reform, caregiving, and domestic violence.

When state leadership has lagged, local innovators have rushed in to fill the vacuum. We've led the nation in innovation. I've prepared a handout for you that is just a sampling of innovative approaches and programs in and beyond California.

But local innovation isn't enough. Some problems need to be addressed at the state level through state policy. We believe that bringing together local innovators with state leadership will create a powerful force for change.

We welcome the opportunity to work with you to explore avenues for affecting change.