

*Older voters represented 23% of the voting population in 2010—up from 16% in 2008.
Elders respond to actions taken, not promises made.*

Bob Blancato, National Coordinator, Elder Justice Coalition

News and Updates

April/May 2012

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CEJC NEWS

We've Changed Our Name! CEJW Becomes CEJC

CEJW's Steering Committee is delighted to announce that we will be launching a statewide coalition and membership organization to:

- Ensure that elder justice advocates in California have a voice in critical developments that impact our work and those we serve;
- Ensure that state and national policy makers and advocates have accurate, bipartisan, and streamlined information on which to make informed policy decisions about elder justice; and
- Implement recommendations contained in *Improving California's Response to Elder Abuse, Neglect, and Exploitation: A Blueprint*.

In preparation, we're changing our name to the California Elder Justice Coalition (CEJC). Our future plans include hosting follow-up summits; expand *News and Updates* to keep members apprised of resources, opportunities, and analyses of critical issues; and provide opportunities for advocates to play leadership roles in advancing elder justice in California. Watch for news on how you can join CEJC.

As we get organized, we're looking for volunteers to:

- Contribute to *News and Updates*. In particular, we're looking for articles to keep our network up-to-date about critical developments in APS, LTSS, law enforcement, mental health, civil law, and victim advocacy;
- Review and summarize proposed and recently enacted policy; and
- Assist in resource development.

CEJC Featured in Justice Department Publication

An article on CEJW was among the offerings in the most recent issue of "[OVC News & Program Updates](#)," an online publication of the Office for Victims of Crime (OVC) of the US Department of Justice (DOJ). Other items in the issue, which focuses on elder abuse, include:

- A message from OVC Acting Director Joye Frost affirming her commitment to elder justice.
- Description of OVC's initiative on elderly victims of identify theft.
- An article by M.T. Connolly, recipient of the prestigious MacArthur "genius" grant for her work in elder abuse prevention.
- Description of DOVES, a Maricopa County (AZ) program for late life domestic violence.
- An introduction to CrimeSolutions.gov, a new DOJ Web site that features information on more than 150 justice-related programs and assigns "evidence ratings" to indicate whether there is evidence from research that a program achieves its goals.

CEJC Launches Legislation Tracking Group

CEJC has launched a monthly interdisciplinary discussion forum, hosted by UC Irvine Center of Excellence on Elder Abuse and Neglect, focused on California legislation germane to elder abuse. The group brings together leaders in the field and includes social workers, lawyers, and advocates. The forum provides a mechanism by which these leaders can discuss and educate each other on legislative developments that impact elders in ways both positive and negative.

The group uses the excellent free online tracking tool www.aroundthecapitol.com to help monitor pertinent legislation. Anyone can sign up for an account to track legislation for free. Bills can be searched and a "bill list" created for tracking purposes.

For each bill, notes can be added to aid in one's advocacy efforts. A user can sign up to get email updates on tracked bills. "Status Reports" and "Last Action Reports" for all of the bills a user tracks can be easily created from the website.

Participation in the forum provides the leaders an opportunity to stay informed regarding important California legislation impacting elders. This, in turn, provides them, and their respective agency or group, opportunity for further independent advocacy or intervention if needed. At its last meeting, the group discussed the following bills:

- AB 40 (Yamada): Would require that reports of suspected or alleged physical abuse in long-term care facilities be made to both the local ombudsman and the local law enforcement agency.
- AB 2149 (Butler): Would provide that agreements to settle civil actions for physical abuse, neglect, or financial abuse of elders or dependent adults shall not include provisions that prohibit contact or cooperation with county adult protective services agencies, long-term care ombudsmen, or other governmental entities.
- SB 1170 (Leno): Would expand the definition of advertisement related to the sale and marketing of insurance products to seniors; add veterans organizations and the Department of Veterans Affairs to the list of those entities that cannot be used in deceptive or misleading advertising; and add the term "veteran" to those words deemed a senior designation.
- SB 1184 (Corbett): Would prohibit insurance brokers or agents from participating in, being associated with, or employing persons that participate in or are associated with, the obtaining of veterans benefits for seniors, unless they maintain procedural safeguards ensuring they have no direct financial incentives to refer policyholders to government benefits programs.
- AB 1525 (Alejo and Allen): Would mandate people or entities engaged in money transmission (e.g., Western Union) to report abuse.
- SB 1299 (Wright): Clarifies and changes state law to make victim compensation user-friendly and readily available to eligible victims.

(Submitted by Kevin Trout, MBA, MSW candidate at Cal State Univ. Northridge and intern at the Center of Excellence).

California News

San Francisco Develops Financial Abuse Blueprint

The San Francisco Elder Financial Abuse Collaboration, a research and policy project of the UCSF/UC Hastings Consortium on Law, Science and Health Policy, and the San Francisco Elder Abuse Forensic Center, was created to promote the financial wellbeing, independence and health status of vulnerable elders by improving civil responses to elder financial abuse. The Collaboration is supported by the Borchard Foundation on Law & Aging and the True North Foundation. It has two primary objectives: 1.) To comprehensively research and analyze existing programs, frameworks, and policies that address elder financial abuse, with a particular focus on civil legal remedies and 2.) To translate the findings into a blueprint that will guide San Francisco's implementation of a comprehensive coordinated civil response to elder financial abuse.

Co-directors Erika Falk and Sarah Hooper report that the blueprint has been finalized and

a research article, entitled *Making the Law Matter: Improving the Civil Legal Response to Financial Elder Abuse*, has been submitted for publication. They will be discussing their findings at the Legal Assistance for Seniors Conference on Elder Abuse in San Francisco on May 21st, 2012 at UC Hastings College of Law. They'll also be posting the blueprint and a resource guide for San Francisco soon. For more information, please contact Erika Falk, Psy.D. at efalk@ioaging.org or Sarah Hooper, JD at hoopers@uchastings.edu

Governor Proposes to Ax Elder Abuse Training Requirement for Police

Hidden deep within the Governor's proposed budget "trailer bill" is the repeal of the requirement that police officers complete POST-certified elder and dependent adult abuse training. The bill can be found at:

[http://www.dof.ca.gov/budgeting/trailer_bill_language/corrections_and_general_government/documents/\[301\]%20Repeal%20Make%20Permissive%20Specified%20Mandates.pdf](http://www.dof.ca.gov/budgeting/trailer_bill_language/corrections_and_general_government/documents/[301]%20Repeal%20Make%20Permissive%20Specified%20Mandates.pdf)

"Dual Eligibles" Plan on Fast Track

The governor has also proposed to expand the pilot project for moving California's "dual eligibles" into managed care. For more on the pilot project, see [News & Updates from CEJW, February/March 2012](#)).

Originally, the plan, which also shifts In-Home Supportive Services, into the managed care benefit, was for a 4-county, 3-year test run beginning in December, 2013. The 4 counties selected to participate are San Diego, Los Angeles, San Mateo and Orange Counties. The governor, however, wants to expand the program to include 6 additional counties to begin in January 2013. The additional counties are Alameda, Contra Costa, Riverside, Sacramento, San Bernardino, and Santa Clara Counties. Altogether, these 10 counties make up 750,000 of the 1.1 million estimated "duals" population in California. The plan will be vetted by budget committees in both houses before possible approval by the budget Conference committee in May.

The move is raising concerns among advocates like Annallee Cobbett of the Center for Independent Living in Berkeley who has observed, "The train is leaving the station so soon we don't know who's on board." Concerns include the potential for conflict between the managed care model of health care and IHSS. According to Gary Passmore of the Congress of California Seniors, "Two cultures have to be blended for this to work. In a medical model, the doctor rules, and the hospital wants to get patients out of the expensive bed." Also of concern is ensuring quality control over private managed care companies.

The Administration has released a 58-page draft proposal for a 30-day public comment period for the demonstration project – called the "Coordinated Care Initiative. Anyone who wants to make official comments on the draft proposal are asked to use a form or template provided by the Department of Health Care Services, which is available on their Web site at <http://www.dhcs.ca.gov/Pages/default.aspx>

After the public comment period, the proposal will be finalized and submitted to the federal Centers on Medicare and Medicaid Services (CMS), the federal agency that oversees nationwide the federal Medicare and Medicaid programs.

CEJC has created a policy brief that is available at:
<http://www.wiseandhealthyaging.org/cms/1290.html>

Leg Analyst's Report on IHSS Budget Proposal

In addition to transitioning IHSS from a fee-for-service benefit to a managed care benefit (see above), the governor's proposed budget eliminates domestic and related care services for most IHSS recipients who live with another person in order to achieve General Fund savings of \$164 million. This report presents the LAO's analysis of the legal and implementation challenges that the proposal presents and offers the Legislature two savings alternatives to consider: 1) Extend a 3.6% across-the-board reduction in service hours that is set to expire at the end of the current year, and 2) reenact a reduction in state participation in provider wages to a level, determined by a study, that does not impact recipient access to services.

The report also examines past efforts to achieve savings in IHSS, which include the implementation of an antifraud program, a reduction in state participation in the payment of provider wages, across-the-board and targeted reductions in service hours, administrative reductions, and methods to secure additional federal funding for the program. The report is available at:

<http://lao.ca.gov/analysis/2012/ss/supportive-services-031912.pdf>
<http://lao.ca.gov/analysis/2012/ss/supportive-services-031912.aspx>

California Nursing Homes Overseers Take (Yet) Another Hit

A new report from the Office of the Inspector General of the Department of Health and Human Services', which oversees Medicare and Medicaid, alleges that California Department of Public Health nursing home inspectors fail to follow up on their own investigative findings, possibly enabling sustained neglect or lax practices that can injure residents. The report is the second in a series of federal examinations of California nursing home oversight. The report, *Federal Survey Requirements Not Always Met for Three California Nursing Homes Participating in the Medicare and Medicaid Programs* is available at <http://oig.hhs.gov/oas/reports/region9/91102019.pdf>

CA Bar Association Reviews Ethical Standards on Diminished Capacity

California is considering adopting a new rule similar to one included in the American Bar Association's Model Rules of Professional Conduct, which would provide guidance to attorneys in working with clients with suspected diminished capacity (Rule 1.14). Under current California Law, attorneys cannot disclose confidential client information unless necessary to prevent a criminal act likely to result in death or substantial bodily harm.

The proposed rule would make it clear that attorneys are obligated to maintain normal attorney-client relationships with older adults with suspected diminished capacity and take measures to work with them in determining their wishes and interests. In addition, it would permit, but not require, lawyers to disclose information about abuse to others where clients have significantly diminished capacity and are at risk of substantial physical, financial, or other harm, and where the clients cannot act in their own interest. This would include notifying individuals or organizations that have the ability to take action to protect them. Comments to the rule, however, clarify that attorneys would be prohibited from filing conservatorship petitions.

Sarah Hooper, Assistant Director of Programs, UCSF/UC Hastings Consortium on Law, Science & Health Policy, and Adjunct Professor at the UC Hastings College of

the Law, explains the process: “The State Bar of Trustees has the authority to periodically update the professional code of ethics for lawyers in California. These rules are proposed during an open “public comment” period, and then finalized by the Trustees. The California Supreme Court must then review and approve the rules before they go into effect. Many rules considered in California for adoption are model rules promulgated by the ABA. States can determine whether or not to adopt the model rules, or some modified version of them. California currently has no rule regarding representation of cognitively impaired clients, and the lack of guidance on this issue is problematic. Unfortunately we may not receive final word on this anytime soon as the California Supreme Court could take two or more years to review and approve the rules.

- To view the model rule and comments about it, see:
: <http://ethics.calbar.ca.gov/Committees/RulesCommission/June25262010MeetingMaterialsProposed.aspx> (Scroll down to see materials for this specific rule)
- To learn more about how the State Bar of California develops the Rules of Professional Conduct that attorneys must adhere to, see:
<http://ethics.calbar.ca.gov/Committees/RulesCommission/ProposedRulesofProfessionalConduct.aspx>

News from Other States

When the Numbers Don’t Add Up: Minnesota Offers Tips for CPAs

With tax time approaching, Minnesota’s Commerce Commissioner Mike Rothman appealed to CPAs to look for fraud as they prepared tax returns. According to Rothman, “Licensed tax professionals are on the front lines every day, and have the skills to identify when their clients may be the victims of financial abuse... Accountants recognize when the numbers just don’t add up.” His office issued the following red flags to CPAs and encouraged those who observe them to contact a special help line:

1. Missing or incomplete documentation. Has your client received full and complete documentation regarding a transaction they engaged in? Is the tax information you have been provided regarding the transaction accurate and professional?
2. Substantial changes in income. When compared to the prior year, has your client experienced an unusual change in interest or dividend income? If so, is it explainable? Where did the money go? If your client experienced a large increase in income, does it seem too good to be true?
3. Promissory notes and gifts. Has your client been loaning money pursuant to long term promissory notes at interest rates that are not competitive? Has your client been gifting large sums of money to questionable third parties?
4. Exotic instruments. Has your client engaged in investing in exotic forms of investment that they do not understand and cannot explain?
5. Fees. If your client employs a broker, does the broker enjoy discretion over your client’s investment? If so, does it appear from year end statements that an excessive number of trades are occurring that may be resulting in excessive fees to the broker?
6. Investment advisor. Does your client employ an investment advisor? Do you believe the investments are not suitable given your client’s age and financial situation?
7. Capital gains or losses. Does it appear that your client is reporting an unusual amount of capital gains or losses compared to their historical experience?

8. Exchanges. Has your client engaged in a 1035 exchange that is not suitable and may have resulted in merely fee generating activity for the promoter of the exchange?

National News

Elder Justice Advocates Head for the Hill

Attendees of the annual joint conference of the American Society on Aging and the National Council on Aging had the chance to meet with members of Congress during Capitol Hill Day on March 28. Among the top priorities was the reauthorization of the Older American's Act, with the Elder Justice Act (EJA) figuring prominently as well. A list of requests prepared by NCOA included an appeal to provide first time funding for the bipartisan of \$21.5 million for the EJA, with \$16.5 million for APS programs and \$5 million to increase OAA Long Term Care Ombudsman Programs. During a briefing about the OAA Reauthorization, five Senators (Blumenthal, Casey, Kohl, Manchin and Sanders) spoke about the need to protect elder abuse victims and prosecute abusers.

The National Committee for the Prevention of Elder Abuse was represented by a delegation headed by Pat Brownell, who chairs NCPEA's Public Policy Committee. NCPEA produced a set of talking points on elder justice that was included as part of a packet for members of the delegation.

Consumer Financial Protection Bureau Office for Older Americans

Naomi Karp, Policy Analyst for the Consumer Financial Protection Bureau, Office for Older Americans, has been making the rounds in person, by phone, and via the Web to let advocates know that the Bureau is up and running and seeking input. Recent activities and resources include:

- Ask CFPB, a new interactive online tool to answer consumers' questions about financial products and services so that they can make informed decisions. The site lets consumers search or navigate by category, like "Credit Card" or "Mortgage," or topic, like "fees" or "closing." It also offers customized content for servicemembers, students, and older Americans. Users can rate answers as "Helpful," "Too long," "Confusing," or "Incorrect," and submit question for possible inclusion.
- A brochure about CFPB is available at http://files.consumerfinance.gov/f/201203_cfpb_brochure_Office-for-Older-Americans.pdf
- A webinar on the new office is being planned for the first week in June (no specific date yet).

NAPSA News

Under new funding from the Administration on Aging, Department of Health and Human Services, NAPSA has launched the National Adult Protective Services Resource Center (NAPSRC). Resources include a Web site and Newsletter.

Featured on the Web site is Research to Practice (R2P) Briefs, which are short descriptions of recent research. The latest Brief focus is titled *Sexual Abuse of Vulnerable Adults in Care Facilities* and was written by Holly Ramsey-Klawnsnik. See:

http://www.apsnetwork.org/national_resources/aps_resource_center.htm

NAPSRC also produces a newsletter. The March issue contains the following news:

- Assistant Secretary for Aging Makes Elder Abuse a Priority
- APS Baseline Survey Complete
- Ask CFPB From the Consumer Financial Protection Bureau
- APS Listserv Now Live
- US Administration on Aging Releases Profile of Older Americans: 2011

International News

UK: Leaders Introduce "Dignity Code" To Prevent Elder Abuse

A February 21 article in the *Telegraph* reports that UK leaders in aging have signed a letter supporting a "Dignity Code" that they hope to implement as a set of uniform standards of care. The code was written by the National Pensioners Convention and are intended to be displayed in care home programs, doctor's offices, and hospital wards, and incorporated into nurse and direct care workers training and employment contracts. The letter was signed by leaders from several large organizations, including Age UK and the Royal College of Nursing. See:

<http://www.telegraph.co.uk/health/elderhealth/9096635/Elderly-ignored-and-treated-as-objects-in-care>

system.html?utm_source=Policy+Digest+3.7.12&utm_campaign=PD.3.7.12&utm_medium=email

Good Reads

"Bamboozlement" Blog

Forbes Magazine has started a new blog on its Web site that's written by veteran newsman John Wasik, who is known to many for his frequently-cited articles on financial abuse in *Consumers Digest Magazine*. A March 20 posting "Emergency Scams Thrive on Money Transfers" focuses on the role of money transfer services like Western Union in perpetrating frauds. The posting should be of special interest to California advocates in light of AB 1525, described earlier. See: <http://blogs.forbes.com/johnwasik/>

Caregiver Stress Syndrome

In a 4-part series on the Caring.com Web site, Paula Spencer Scott takes an intimate look at caregiver stress, exploring topics like why pressures on men are different than those typically stressing out women, the healthcare toll on caregivers (and how to avoid illness from such stress), and what caregivers can do to keep the strain of care from undermining their personal relationships. See:

- Part 1: Avoiding Stress in Eldercare: What 7 At-Risk Groups Need to Know. See: <http://bit.ly/wc9zSj>
- Part 2: Caregiver Stress Syndrome: What's Different for Men. See: <http://bit.ly/wUOJyo>
- Part 3: How to Beat Caregiver Stress Syndrome and Stay Healthy: <http://bit.ly/y7NVb7>; and

- Part 4: How to Spare Your Relationships the Risks of Caregiver Stress Syndrome:
<http://bit.ly/xD1Wvn>

Resources

Video: A Look at Elder Abuse from the Perspective of Law Enforcement

This 42-minute video, available online, features Dave Case, retired detective from the Fresno County Sheriff's Department's Elder Abuse Unit. It includes a Power Point presentation and offers CEUs. See.

<http://e2ma.net/go/6045649/4254287/114549246/17412/b64/aHR0cDovL3d3dzIuY291cnRpbmZvLmNhLmdvdi9jb21ldC9odG1sL2Jyb2FkY2FzdHMvNjcyNI92%0D%0AaWR1by5odG0=>.

Free Elder Abuse Training for Medical Providers

This series of assessing for elder abuse in medical settings is part of the Asking the Difficult Questions series produced by the University of New England. It features Dan Sheridan PhD, RN, FNE-A, FAAN, an expert on forensics issues in elder abuse.

<http://www.une.edu/mainegec/askdiffquestion.cfm>

OVC Releases Report to the Nation

OVC's recently released 2011 "[Rising to the Challenge: A New Era in Victim Services](#)" summarizes OVC's programs and services in fiscal years 2009 and 2010 and describes the effect of these programs and services on victims, survivors, and communities. It also describes the history of the Crime Victims Fund and more.

Research

New Study Confirms Elder Financial Exploitation Underreported, Underinvestigated, and Underprosecuted

According to a new study at University of Virginia School of Law that compared financial abuse in domestic settings to other forms of elder mistreatment:

- The average loss in money and assets by victims of financial exploitation is \$87,967.
- APS caseworkers view financial exploitation as, much more difficult to investigate, than other forms of abuse and neglect and believe that police and prosecutors are less likely to pursue cases of fraud.
- Better training for those who work in the field, including caseworkers, police, and prosecutors, will have more of an impact than legislation on preventing abuse.
- When prosecutors have special training or access to experts to help them investigate, it makes a big difference. For smaller communities, it can be difficult to find the resources to set up special units. These communities may instead turn to regional training programs and a pooling of resources.

The lead investigators for the new study are Thomas L. Hafemeister, Associate Professor at UV's Law School and the School of Medicine's Department of Psychiatry and

Neurobehavioral Sciences, and Shelly Jackson, Assistant Professor in the Department of Psychiatry and Neurobehavioral Sciences.

See at [New Study Confirms Under-reported Elder Financial Abuse](#)

Multi-Generational Views on Family Financial Obligations

Who owes what to whom? Elder financial abuse cases sometimes reflect differences in opinion among family members about who's responsible for whom. According to a new online survey of more than 2,000 people conducted by the Mature Market Institute, how people feel about supporting other family members varies by generation with significant differences observed between Boomers (ages 48-66 in 2012), Gen Xers (ages 36-47), and Gen Yers (ages 22 — 35 this year). See <http://www.metlife.com/mmi/research/multi-generational-views-family-obligations.html#findings>

The Rise of Financial Fraud

According to a new study by the Center for Retirement Research at Boston College, the rise in financial abuse is fueled by the Internet. The study, directed by Kimberly Blanton, predicts that the trend will continue or accelerate as aging baby boomers increasingly become targets. According to the Federal Trade Commission, Americans in 2010 submitted more than 1 million complaints about financial and other fraud — up 35 percent in just three years. But these data do not fully represent fraud's pervasiveness, because researchers say that it often goes unreported to the authorities." See http://crr.bc.edu/wp-content/uploads/2012/02/IB_12-5-508.pdf