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California Elder Justice Coalition

News & Updates

August/September 2012

Welcome Elder Justice Advocate,
We hope you enjoy this issue of *CEJC News & Updates* and find the information useful. Please let us know if you have news to add or would like to contribute to future issues.

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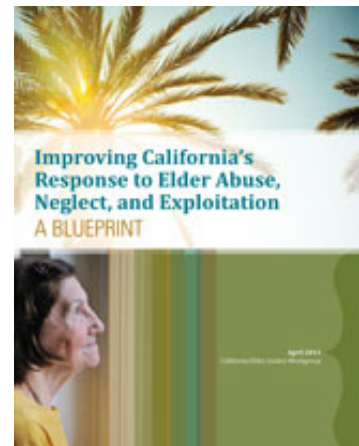
In this Issue

CEJC News

- CEJC Represented at White House Symposium
- 2010 Summit "Commitments" Still Coming

In State and Local News (California)

- AB 40 Moves Ahead
- Impact of State Budget Cuts on Elder Justice Programs Update on Adult Day Health Centers (ADHCs) Closures
- "Dual Eligible" Debate Heats Up, Cools Down



State News (other states)

- Pennsylvania Appeals Court Rules on Filial Responsibility
- Connecticut Rules on Immunity for Abusers
- Alabama Legislature Creates Inter-Agency Council on Elder Abuse Prevention

National News

- Federal Agencies Commit to Elder Justice
- Bill to Protect Seniors from Guardian Abuse Advances in Senate

Research Reports

- Utah Calculates Cost of Financial Exploitation
- CFPB Releases Report to Congress on Reverse Mortgages
- Latest Journal of Elder Abuse & Neglect Released

Resources

- National Center for State Courts (NCSC) Tool kits
- New From the Office For Victims of Crime
- Nursing Home Compare Gets Update

Good Reads

- Generations Devotes Issue to Financial Capacity
- Does “Positivity” Make Seniors More Vulnerable?

CEJC News

CEJC Represented at White House Symposium

On June 14, CEJC Chair **Lisa Nerenberg** and Steering Committee member **Mary Twomey** participated in the first White House Symposium on Elder Abuse hosted by the White House Office of Public Engagement in collaboration with the

Administration for Community Living (ACL) of the Department of Health and Human Services (DHHS), the Consumer Financial Protection Bureau (CFPB), and the Department of Justice (DOJ). Highlights included updates on federal agencies’ initiatives (described under National News below). You can watch the all-day event, which was facilitated by Assistant Secretary for Aging and ACL Administrator **Kathy Greenlee**, on You Tube. It is divided into sections by panel, the first of which included Jon Carson, Director of the White House Office of Public Engagement; Secretary of Health and Human Services **Kathleen Sebelius**; Deputy Attorney General **James Coal**; CFPB Director **Richard Cordray**; Deputy Commissioner of Social Security **Carolyn Colvin**; and **Daniel Ludeman**, President and CEO of Wells Fargo Advisors, LLC. Also playing a prominent role in the day’s events was **Skip Humphrey**, who heads up CFPB’s Office of Older Americans.

- Panel 1 http://www.youtube.com/watch?v=-X0N4rL_tc&feature=context-chv
- Panel 2 <http://www.youtube.com/watch?v=49g5h-x1sGg&feature=context-chv>
- Panel 3 <http://www.youtube.com/watch?v=29zuVUtrUjI&feature=context-chv>
- Panel 4 <http://www.youtube.com/watch?v=6K2zeBkvc74&feature=context-chv>



2010 Summit “Commitments” Still Coming In

A highlight of CEJC’s 2010 summit was when delegates made commitments to elder justice. Tangible products of those commitments are still coming in. They

include:

- Civil Elder Financial Abuse for Prosecutors/Criminal Elder Financial Abuse for Civil Lawyers. This ingenious guide, designed by **Steve Riess** (Law Offices of Steven Riess) and **Helen Karr**, Elder Abuse Specialist in the San Francisco District Attorney's Office, provides an overview of the laws, issues, and practical concerns of elder financial abuse from the civil and criminal perspectives. One half, created for criminal justice professionals, describes civil statutes and remedies; flip the document over and it's a guide for civil attorneys that describes criminal statutes and remedies. San Francisco's Institute on Aging (IOA) produced the booklet and is overseeing distribution.

Copies in PDF format are available by clicking [here](#).

For hard copies, contact **Talitha Guinn** at tguinn@ioaging.org with your mailing address, number requested, and who the copies are for.

Following the summit, delegates who participated in the breakout session that explored California's abuse reporting system formed **the APS/Ombudsman Jurisdiction Task Force**. After reviewing state and federal laws, regulations, guidelines, and past interpretations; and conducting a survey of Ombudsmen and APS workers that used case scenarios to identify areas of confusion and variations in local practices; the group developed a protocol and sample memorandum of understanding for agencies involved in the reporting process. The materials were piloted in Los Angeles County and are now available by contacting **Molly Davies** of WISE & Healthy Aging at mdavies@wiseandhealthyaging.org

State and Local News (California)

AB 40 Moves Ahead

Assemblymember **Mariko Yamada's** office has been working with the Senate Appropriations Committee to finalize language for AB 40 (Yamada), a bill that requires mandated reporters to report to both local Ombudsmen and law enforcement when reporting facility-based abuse (currently, they can report to one or the other). The bill does

so by incorporating key elements of the Federal Elder Justice Act (EJA) into state mandated reporter statutes. Doing so extends the new federal reporting mandate beyond federally financed skilled nursing facilities (SNFs) to include all other nursing homes, intermediate care, and assisted living facilities. Consumers will benefit from a guaranteed law enforcement review of criminal events and a more aggressive timeline for responses and follow-up. Additional benefits of the law enable Ombudsman and law enforcement to collaborate in the most appropriate immediate response, thus overcoming longstanding



confidentiality barriers. According to the author's office, the EJA was very timely because it established a more aggressive reporting protocol than currently exists, which opened the door to conforming that new and more aggressive reporting protocol across the entire long-term care facility continuum. The measure is currently pending consideration for removal from the Senate Suspense File and letters of support should be sent immediately c/o Senate Appropriations Committee, Room 2206, State Capitol, Sacramento, 95814.

Impact of State Budget Cuts on Elder Justice Programs

The impact of state budget cuts and other developments is being felt across the state. Advocates provide a few examples:

- San Bernardino Deputy District Attorney **Tristan Svare** on the "realignment" of corrections, which transfers the state's responsibility for lower-level drug offenders, thieves, and other convicts to county jurisdictions:

"With the realignment of California's prison system and what is now Penal Code Section 1170(h), many convicted felons that would be looking at state-prison commitments (such as the facilities at Chino, or Folsom, or Chowchilla) are now looking at serving local time at the new "county prison," which is really just a new name for the local jail systems where convicted prisoners were housed before trial or conviction. And, with the influx of what would have been prisoners going off to the state prison system now staying in the local county jail/prison system, there will be more overcrowding in local jails.

This has led to the Paris Hilton experience - where a celebrity is given a custody term of several weeks in jail yet does a "turn around" of only a few days actually served due to overcrowding in LA County's jail system. Now the "turn around" is prevalent in more counties. Even though research shows that elder abuse victims, even financial abuse victims, are subject to a mortality rate increase of three fold, courts often don't view financial crimes as "serious" offenses and are reluctant to impose long prison terms, let alone long local jail/prison terms knowing that offenders are looking at these turn around sentences due to budget issues. Fortunately, PC 1170(h) recognizes elder (and dependent adult) physical abuse is still a "state prison eligible" offense, but this compounds the problem of courts and the legislature not taking seriously enough the impact of elder financial abuse on its victims. These capitulations on meaningful imprisonment is both disheartening to police and prosecutors, and unjust and insulting to suffering victims."

- Personnel from the San Francisco Superior Court report that it has had to discontinue its self-help conservatorship clinic as a result of cuts.
- **Donna Strobel**, Education Specialist at the Administrative Office of the Courts, surveyed elder courts in Alameda, Contra Costa, and Ventura Counties to see how the courts are faring:

- According to **Judge Joyce Cram** of the Contra Costa court, “So far, the budget problems have had minimal impact on our Elder Court. Sadly, that may not hold true if the court's budget for the upcoming year is heavily impacted. Because of the uncertainty of the court's budget, no predictions can be made as to the continued viability of the Elder Court, although we’re committed to providing this service as long as is fiscally possible. We are fortunate that the court itself is a magnet for volunteers, so we do not rely on any form of funding to provide the needed follow-up services that we get through Senior Peer Counselors and the Senior Self Help Center.”
- And from **Ruthanne Allen-Hunt**, Bureau Chief in Alameda: “Fortunately, so far there has been no change in the Elder Court in Alameda County due to budget cuts. All felony elder cases continue to be heard in Oakland, using a vertical prosecution model; and misdemeanor elder cases are heard in all court locations. Members of the Elder Victim-Witness Team are involved in all criminal elder cases, regardless of the location. Elder Abuse restraining order cases are heard in Oakland and Hayward one morning each week. One of our Family Violence and Elder Abuse Case Managers is present for these hearings as well as an attorney from Legal Assistance for Seniors (who also coordinates with APS as needed). There is communication among the Family Violence and Elder Abuse Case Managers, Legal Assistance for Seniors attorney and APS staff as needed either in preparing for or following up after hearings. Elder Victim-Witness Team members also participate in follow-up in Oakland elder abuse restraining order cases.
- **Scott Jones**, former Coordinator of the Elder Court program in Ventura County, has left the court to become Deputy Director of the Area Agency on Aging in Ventura County. Before leaving the court at the end of April, he says, services were pretty much in tact but notes that that could change if additional cuts are made.

Update on Adult Day Health Centers (ADHCs) Closure

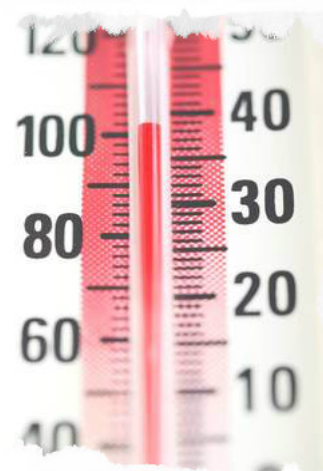
As part of a legal settlement in a suit over Governor Brown’s plan to eliminate ADHCs entirely, the state must accept adults who qualified for ADHC and are additionally considered at risk of institutionalization into a new program called Community-Based Adult Services (CBAS), which started March 1. State officials estimated that half of the state’s 35,000 ADHC participants would qualify for the new service.

According to a July 10, 2012 issue of *California Healthline* ([click here to see the article](#)), advocates are saying that the state has been rejecting people that they (the state) agrees are at risk of institutionalization by saying they do not meet ADHC requirements. In the Bay Area's six largest counties - Alameda, Contra Costa, Marin, San Mateo, San Francisco and Santa Clara - there were about 3,300 participants before the cutbacks took effect. More than 65% of them have

since been denied eligibility with the rate as high as 75 to 95% at some centers, including clients who had been deemed eligible as recently as February or March. Advocates further report that there have been several cases around California in which people deemed ineligible have been left alone, hurt themselves, or been placed in psychiatric hospitals or nursing homes. Thousands of clients are appealing the determinations and the hearings, according to observers, have been contentious.

“Dual Eligible” Debate Heats Up, Cools Down

Members of the California Collaborative are circulating a letter from U.S. Senator **Jay Rockefeller**, one of the original advocates for the dual eligible demonstration, to Secretary of Health and Human Services Sebelius calling for an immediate halt to the program and stating that the way the program has been designed is too focused on savings rather than improving care. California is one of 15 states participating in the program for beneficiaries of both Medicaid (called Medi-Cal in California) and Medicare that was created under the federal health reform law to better coordinate care for the nine million U.S. residents eligible for both programs by placing them in either capitated or managed fee-for-service plans, or both. Excerpts from the letter:



"Not only does the Coordinated Care Office appear to be off-course in terms of its mission, the Financial Alignment Initiative also seems to be in direct conflict with the eight, very specific, statutory goals Congress outlined for the office- none of which mentions savings."

"Congress charged the Federal Coordinated Health Care Office and the Centers for Medicare and Medicaid Innovation with testing new and innovative models of care coordination, not with recycling old ideas already proven to be ineffective for this population and risking the health of millions by forcing them to comply. If more Medicaid managed care had been the goal, Congress would have passed legislation saying that."

"I urge you to reject state proposals not designed as careful pilots."

Apparently, other Senate leaders from both sides of the aisle share Rockefeller's concerns about the size and scope of the demonstrations, with some suggesting that California's proposal is a big reason for that concern. Other groups urging CMS to halt implementation have raised concerns about whether managed care plans are actually able to handle the new beneficiaries, whether the pilot can produce savings while improving care quality, and consumers' ability to make informed decisions.

Among the skeptics is **AARP California**, which, in a letter to CMS, raised concerns about "the ability of beneficiaries with mental illnesses, cognitive impairments, and multiple chronic medical conditions to be actively and effectively involved in the complex decisions the proposal requires them to

make about plan participation, provider selection, grievances, and appeals.” It further warns that the plan is too large and does not include adequate consumer protections. The letter also raised concerns about some of the managed care plans’ poor scores on patient experience measures, noting that CMS’s website Medicare.gov includes warnings to consumers that Molina Health Care in San Diego has had low ratings for 3 years. The letter further urges CMS to limit the scale of the project to evaluate impact on quality and efficiency.

Faced with mounting criticism, **Melanie Bella**, director of the program, told the Senate Aging Committee during a hearing on July 18 that CMS will keep enrollment below 2 million people, or more than a million fewer than states have proposed, in response to objections from both providers and patient advocates who claim that such a huge program would overwhelm the agency's ability to track the pilot’s outcomes and prevent unintended negative impacts on enrollees. The agency will begin announcing which state pilots it has approved soon and on a rolling basis.

In a policy paper released earlier this year, CEJC’s Steering Committee recommended that participating plans be required to demonstrate that adequate safeguards are in place, including:

- Screening of participants that reflects current understanding of risk factors associated with elder and dependent adult abuse, self-neglect, and decision-making capacity;
- Protocols for reporting elder and dependent adult abuse and neglect;
- Partnerships and linkages with elder justice agencies, including APS, Ombudsmen, elder abuse prevention multidisciplinary teams and forensics centers, and mental health service providers;
- Inventories of local elder justice resources;
- Training to staff in elder abuse and their duty to report abuse; and
- Systems to “red flag” abusers (those whose abusive actions have been substantiated by protective service, oversight, or law enforcement entities) and prevent them from gaining employment that endangers others..

News (Other States)



Pennsylvania Appeals Court Rules on Filial Responsibility

In a May 16 posting on Forbe’s **Caring for Our Parents** blog, **Howard Gleckman**, a resident fellow at The Urban Institute, reported that a Pennsylvania appeals court ruled that an adult son was responsible for his mother's unpaid nursing home bill. Gleckman further questioned whether the decision reflects a trend and notes that 30 states have filial responsibility laws and about 2/3 allow long-term care providers to sue family members for unpaid costs. In the Pennsylvania case, the mother was in a nursing

facility for six months after a car accident. The facility sued her son for the bill, and the appeals court said that family members could be sued as long as the facility can prove that the relative has resources to pay. To see the posting, [click here](#).

Connecticut Rules on Immunity for Abusers

In a unanimous ruling, Connecticut's Supreme Court ruled that court-appointed lawyers do not have immunity from lawsuits if they abuse their clients. The court also ruled, in a divided opinion, that conservators appointed by probate courts have limited immunity and that nursing homes do not have immunity from lawsuits in probate cases. See [GROSS v. RELI](#)

Alabama Legislature Creates Council on Elder Abuse Prevention

The recently enacted SB262 creates a 26-member Inter-Agency Council on Elder Abuse Prevention that will include state agencies and advocacy groups including AARP, law enforcement agencies, the Alabama Sheriffs' Association, the Area Agencies on Aging, and the Nursing Home Association. The group, which will be co-chaired by commissioners of the State's Department of Human Resources and the Department of Senior Services, is charged with finding better ways to identify and report abuse, better coordinate services for victims, and review and make recommendations for state spending to prevent abuse. It will report annually to the governor and legislature. For more, [click here](#).

National News

Federal Agencies Commit to Elder Justice

During the June 14, 2012 White House Symposium on Elder Abuse, federal agency reps announced a wide range of current and new initiatives, including:

- **Jon Carson**, Director of the White House Office of Public Engagement, announced that the White House had issued its first proclamation commemorating World Elder Abuse Day.
- **Kathleen Sebelius**, Secretary of Health and Human Services, announced that the Administration on Aging (AoA) is moving ahead with the creation of the Elder Justice Coordinating Council, which was established under the EJA. It will reside within the Office of the DHHS Secretary, who will serve as Chair and permanent member. Other members will include heads of federal departments and other government entities, including the Department of Housing and Urban Development, the Department of Veterans Affairs, the Commissioner of the Social Security Administration, and the Postal Inspector of the US Postal Service. Sid Stahl, who recently retired from the National Institute on Aging, will serve as half-time advisor. Among the goals of the Council is to identify states that are successfully addressing the problem.



Secretary Sebilius also announced the release of \$5.5 million from the Affordable Care Act in grants to test innovative state and local programs and bring together state and national leaders to create a coordinated system of care. Funds will support projects in 5 to 8 states with awards ranging from \$625,000- \$1,020,000 per state for 3 year projects. Grantees will develop, test, and evaluate interventions in partnership with their state APS services agency, state unit on aging, and appropriate justice system entities while participating in a national evaluation of the projects. Proposals were due July 31, 2012.

- **James Coal**, Deputy Attorney General, announced that the Department of Justice (DOJ), with support from DHHS, began working earlier this year on an “Elder Justice Roadmap,” under the guidance of **M.T. Connolly**, Director of Life Long Justice. The goal is to collect input from stakeholders and identify potential policy, practice, and research priorities and to inform the Coordinating Council in developing its strategic agenda. Other DOJ initiatives include:
 - Created the Health Care Fraud Prevention and Enforcement Action Team (HEAT), which, in 2009, recovered over \$8 billion dollars in cases involving fraud against Medicare and other federal health care programs.
 - Hosted (last March) a consumer protection summit that brought together federal and state law enforcement and regulators with consumer advocates to discuss strategies for enhancing civil and criminal enforcement of consumer fraud crimes and increase public awareness about common schemes.
 - DOJ’s Consumer Protection Branch has been prosecuting fraudsters who target the elderly through reverse mortgage fraud and lottery scams. The Branch has also collaborated with others, including AARP, to raise public awareness about scams.
 - DOJ is calling on civil attorneys to get involved in elder abuse and will be providing materials to attorneys around the country. It is their hope that legal aid lawyers’ efforts will be leveraged by private lawyer pro bono volunteers to increase their capacity to serve elderly victims. The Department’s Elder Justice and Access to Justice Initiatives are working with the Legal Services Corporation on the “Missing Link Project” to develop training materials for legal services providers on the following topics:
 - Preventing mortgage foreclosures resulting from family members’ theft;
 - Counseling older clients about legal options for responding to debt brought on by financial scams;
 - Counseling on how to avoid scams;
 - Advising clients on how to revoke powers of attorney that are being used to exploit them; and
 - Representing abused clients in obtaining protective orders.

- **Richard Cordray**, Director of the Consumer Financial Protection Bureau, announced an initiative to learn more about ways older Americans are financially exploited by people calling themselves “certified financial advisors.” Specifically, they will look at credentials being offered, who is awarding them, how seniors can determine their legitimacy, and how to identify real experts. The Bureau considers misuse of these credentials elder financial abuse. The Bureau is also determining what financial education, counseling, or management programs are needed by older Americans, their families, and their caregivers, and are particularly concerned about scams targeting veterans involving Aide and Assistance.

- **Skip Humphrey**, Director of CFPB’s Older of Older Americans, announced the following additional initiatives:
 - The Department is soliciting input from the public and those working with older adults about the ways older Americans are financially exploited and best practices. More information is available on CFPB’s website at <http://www.consumerfinance.gov>. Comments can be submitted at: <http://www.regulations.gov>. The last day for responses is August 17th.
 - CFPB is working on a guide for lay fiduciaries to help them understand their responsibilities.
 - Conducted a study of reverse mortgage to help them understand abusive practices. See Resources below.

- **Carolyn Colvin**, Deputy Commissioner of Social Security, announced that the Social Security Administration is attempting to stop financial abuse to recipients through the following:
 - Advising older adults to protect their identifying information through shredding and not giving out personal identifying information.
 - The development of internal policies to protect beneficiaries’ identities.
 - An initiative to personally reach out to the 40,000 beneficiaries who are 100 years old or older to check on their status and see if they need representative payees.
 - A campaign to increase the number of representative payees from the current 5 million.
 - Reaching out to the community to report abuse by rep payees via a hotline for reporting suspicions of abuse: 1(800) 269-0271.
 - An initiative with the ACL to find volunteer and organizational payees that will include a webinar “Social Security Needs Your

Help” to find payees and identify abuse.

- Working with ACL to find ways to share information and engage in collaborative training for service providers to help them identify fraud.

- **Daniel Ludeman**, President and CEO of Wells Fargo Advisors, LLC., announced the following initiatives:

- Exploring how privacy laws, fear of liability, or other restrictions prevent banks from taking needed action when clients are victims of scams or abuse by family members.
- Created a legal response team that works with advisors across the country to investigate reports. The team handles 60 new reports a month and works with APS when abuse is discovered.
- Held a series of symposia around the U.S. that included law enforcement, APS, and financial professionals aimed at helping them improve their response.
- Negotiating an MOU with AoA to partner in training initiatives.
- Working with service organizations on training for APS workers.
- Created a website to help the public find resources.
- Developed an elder abuse component for “Hands on Banking,” a curriculum on financial literacy.

- **Charles Harwood**, Deputy Director of the Federal Trade Commission's Bureau of Consumer Protection, described FTC's activities:

- Working with businesses and law enforcement on consumer and business cases.
- FTC has operated a consumer complaint center for the last 12 years.
- Working with ACL to develop a peer counseling program for seniors.
- Conducted a study with the AARP Foundation focusing on victims. Consumers who filed complaints with FTC were called by AARP peer counselors to talk about their experiences with phony sweepstakes, foreign lotteries, fake timeshares, reverse mortgage fraud, grandparent scams, and others types of fraud.
- FTC has filed 36 cases involving mortgage fraud, prize promotions, and other scams.

- **Mary Twomey**, Co-Director of the National Center on Elder Abuse (NCEA), announced that NCEA is launching the Ageless Alliance, a “grass-roots movement connecting people of all age groups to identify, prevent, and eliminate elder abuse.”

Bill to Protect Seniors from Guardian Abuse Advances in Senate

On July 12, 2012, the Senate Judiciary Committee approved the Guardian Accountability and Senior Protection Act, introduced by Senators Amy Klobuchar (D-Minn.) and John Cornyn (R-Texas). If enacted, the new law will provide support to states to implement programs to increase oversight of guardians and conservators. Specifically, it provides funding for state courts to assess the handling of proceedings relating to guardian and conservators, and make the necessary improvements. It further sets aside a portion of the funding for states seeking to implement or improve systems for conducting background checks on potential guardians and conservators. It also authorizes state courts to implement an electronic filing system to better monitor conservatorships and guardianships. The bill is in response to a 2010 report by the Government Accountability Office (GAO), which identified hundreds of allegations of physical abuse, neglect, and financial exploitation by guardians in 45 states and D.C. between 1990 and 2010. The report reviewed 20 of these cases and found that guardians had stolen, or otherwise improperly obtained, \$5.4 million from 158 incapacitated victims, many of whom were older adults. On July 13, the Senate Judiciary Committee voted 15-3 to adopt the bill and is expected to get a vote of the full Senate soon.”

Research

Utah Calculates Cost of Financial Exploitation

A new study by Utah Legal Services Developer **Jilenne Gunther** found that Utah's seniors lose an average of \$1 million weekly to financial theft, Utah's most common form of elder abuse. The majority of perpetrators were victims' children and grandchildren, who took credit cards, looted bank accounts, forged checks, stole cars or medications, pawned wheelchairs, or refused to pay rent to live in an older person's home. The study found only 11% of perpetrators were strangers.



Losses ranged from \$35 to more than \$745,000 and resulted in overall costs of more than \$51 million to seniors, taxpayers, businesses, and the government. In addition, \$30 million was taken from financial institutions. According to the report, Utah pays an estimated \$7.8 million to care for elders impoverished to the point that they turned to Medicaid for health care.

Gunther, who reviewed 57 confirmed cases of elder financial exploitation, estimates that for every 10 actual incidents of abuse, only one was reported. Only 2% of the referrals to APS came from victims themselves and 21% came from banks and credit unions. Even when allegations are reported, some cases are set aside as too complex or for being civil not criminal matters. The report is

New Report on Caregiver Screening

A new report published in the Journal of the American Geriatrics Society (Volume 6, Issue 7, pages 1253-1259) reveals that many nursing agencies recruit people with no relevant experience off Craigslist. The study, led by **Lee Lindquist**, M.D., surveyed 180 agencies, of which only 55% conducted federal criminal background checks and one-third administered drug tests. Lindquist, a physician at Northwestern Memorial Hospital, is particularly concerned about the potential for drug misuse and abuse. She notes: "Considering that seniors often take pain medications, including narcotics, this is risky. Some of the paid caregivers may be illicit drug users and could easily use or steal the seniors' drugs to support their own habits." The report cites a case in which the caregiver of a 103-year-old patient frequently mixed up her own medications with the patient's because she was illiterate. The report further notes the lack of federal regulation for elder care referral agencies and calls for standards. For more, [click here](#).

CFPB releases Report to Congress on Reverse Mortgages

On June 28, CFPB released *Reverse Mortgages: Report to Congress*. A reverse mortgage is a home equity loan available to homeowners age 62 and older that allows them to tap the equity in their homes without making monthly mortgage payments. The borrower is responsible for paying the taxes and insurance on the property. When borrowers are ready to sell, or they die, the bank takes its share of the proceeds from the sale, and borrowers (or their heirs) receive whatever is left. Congress directed CFPB to conduct the study to (1) provide an authoritative resource on reverse mortgage products, consumers, and markets; (2) identify and assess consumer protection concerns; and (3) explore critical unanswered questions and update the public body of knowledge to reflect new market realities.

Latest Journal of Elder Abuse & Neglect Released

JEAN Vol 24, No. 3 is now available and includes:

Screening for Elder Abuse in Hospitalized Older Adults With Dementia: **Leslie D. Pisani & Christine A. Walsh**

Mistreatment and Self-Reported Emotional Symptoms: Results From the National Elder Mistreatment Study: **Josh M. Cisler, Angela M. Begle, Ananda B. Amstadter & Ron Acierno**

Financial Exploitation of Older Persons in Adult Care Settings: Comparisons to Physical Abuse and the Justice System's Response: **Brian K. Payne & Sheryl M. Strasser**

Cultural Diversity and the Mistreatment of Older People in Black and Minority Ethnic Communities: Some Implications for Service Provision: **Alison Bowes, Ghizala Avan, & Sherry Bien Macintosh**

In Memoriam: Dr. Toshio Tatara, 1937–2012: **Karen F. Stein**



To learn more about JEAN or order a sample copy, visit publisher **Taylor & Francis'** Web site by [clicking here](#).

Resources



National Center for State Courts (NCSC) Tool kits

Last month, NCSC released its much anticipated toolkits on elder abuse for courts and prosecutors. Funded through grants by the Bureau of Justice Assistance, the toolkits include a judicial benchcard, interagency coordination guides, a prosecution guide, and proposed performance measures. Described below, the toolkits are available in PDF format on NCSC's revamped web site at: www.eldersandcourts.org

- *Prosecuting Elder Abuse Cases: Basic Tools and Strategies* addresses evidentiary matters and use of experts, highlighting lessons drawn from three successful prosecutions. An evidence checklist that outlines the types and sources of evidence that may be needed to build cases and prove elder abuse crimes is provided.
- *Prosecuting Elder Abuse Cases: Proposed Performance Measures* introduces eight measures that may be used by prosecutors to document activity and achieve more effective outcomes. It offers strategies for "flagging" elder abuse cases and provides logistics and tools required to collect, analyze and interpret each measure.
- *Prosecution Guide to Effective Collaboration on Elder Abuse* describes

how prosecutors can provide leadership in multidisciplinary collaborations to more effectively identify and prosecute individual elder abuse cases as well as improve community responses and prevention efforts. It features examples of state and local collaboration and provides online resources.

- *Identifying and Responding to Elder Abuse: A Benchcard for Judges* provides a template of strategies that courts can take to improve their response. The benchcard can be modified to reflect state statutes, court remediation and management tools, and local resources.

New From the Office For Victims of Crime

OVC has recently released:

- Crime Victims Fund Fact Sheet (revised)(FS 000382) provides new information about the Victims of Crime Act (VOCA), The Crime Victims Fund, and grant programs (formula and discretionary) funded by VOCA. To view the Fact Sheet, [click here](#).
- 2011 OVC Report to the Nation *Rising to the Challenge: A New Era in Victim Services* provides a history and updates of OVC programs and services, including:
 - The history of the Crime Victims Fund, which was established in 1984 by the Victims of Crime Act (VOCA) to collect criminal fines, bond forfeitures, and penalties paid by convicted federal offenders, making it a self-sufficient source of support, independent of tax dollars.
 - How OVC channeled \$1.2 billion in 2009–10 to support compensation and assistance for more than 7 million victims across the country.
 - Innovative programs, projects, and strategies supported by OVC.
 - OVC's outreach to victims of emerging crimes, such as trafficking and identity theft, and renewed efforts to reach underserved populations, including American Indians and LGBTQ victims of crime.
 - Expanded training, technical assistance, and public outreach to build the capacity of service providers, advocates, and allied professionals who assist victims.

To view the report [click here](#).

Nursing Home Compare Gets Update

This summer, **Nursing Home Compare**, a government operated Web site that allows consumers to compare information about the quality of care in Medicare and Medicaid-certified nursing homes, is being redesigned and will include new information required by the Affordable Care Act. The changes were unveiled by CMS at a May 16 meeting with consumer and provider groups. Although welcoming the new information, advocates expressed disappointment at some details, including the fact that the information will come, at least initially, from

CMS's PECOS system as opposed to comprehensive disclosures required by the ACA. PECOS was criticized by the GAO for inconsistency and incompleteness. To see the full report, [click here](#). The new site will include:

- Names of nursing homes' owners.
- Links to facilities' full survey reports (Form 2567) on the CMS website. As they become available, three years of survey reports will be provided.
- Quality measures for antipsychotic drug use.
- Physical therapist hours per resident day.
- Quality measures changed to reflect the new MDS 3.0 resident assessments.

Design improvements will include:

- Less text on pages.
- A format allowing users to compare homes' general information (star ratings and nurse staffing and therapy hours), inspections and complaints, quality measures, and penalties.
- Graphs showing facilities' relative performance on quality measures.
- A map allowing searches by geographic area.

Good Reads

***Generations* Devotes Issue to Financial Capacity**

The Summer 2012 issue (vol.36, No. 2) of *Generations*, a publication of the American Society on Aging, is devoted to financial capacity and competence. It is guest edited by **Daniel C. Marson**, who gave the keynote address at CEJC's summit in 2010 and has done groundbreaking work in exploring the link between financial capacity and vulnerability to fraud. The issue focuses on 3 areas: the current financial landscape of retirement for elders; a clinical perspective on older adults' financial capacity; and the legal aspects of financial competency. The issue's sixteen articles describe and highlight ongoing efforts to educate professionals and to offer protective services to elders at risk for financial incapacity. For more on the special issue and to order copies, click [here](#).



Does “Positivity” Make Seniors More Vulnerable?

Thanks to fraud expert **Richard Titus** for alerting us to Stanford University psychology professor **Laura Carstensen's** 2011 book “A Long Bright Future,” in which she describes extensive research indicating that with increasing years comes an increasing tendency to focus on positive perceptions, attributions, cognitions, etc. Carstensen believes that this tendency may extend to finding the positive in sales presentations. Although she acknowledges that victimization data don't indicate greater senior fraud victimization, she thinks that perhaps the

"positivity" factor might make older adults less likely to report victimization.

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