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News and Updates

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CEJC News

From Practice to Policy: Setting the Course for Elder Justice Summit

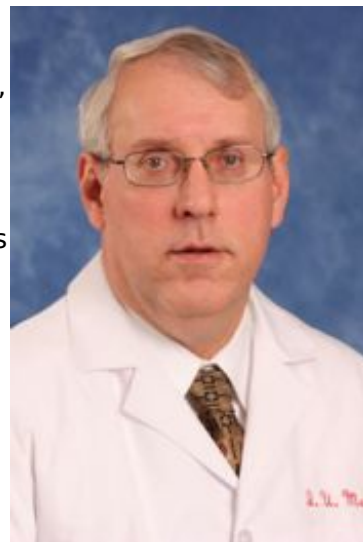
On September 26, CEJC and the California Commission on Aging hosted *From Practice to Policy: Setting the Course for Elder Justice California Elder Justice Policy Summit* in Sacramento. Highlights included:

- Keynoter **Dr. Dean Hawley**, Professor of Pathology at Indiana University, provided a national perspective on forensic achievements, the family justice center movement, promising elder justice practices in other states, and new opportunities offered by the Elder Justice Act.

- Delegates met in facilitated breakout sessions to discuss 5 aspects of California's response to elder justice:

- 1) Modernizing Adult Protective Services;
- 2) Improving California's Response to Elder Abuse in Institutional Settings;
- 3) Mobilizing Caregivers to Prevent Abuse,
- 4) Examining The Legal System's Role, and
- 5) Elder Justice for All: Access and Parity.

Breakout groups also formulated recommendations and committed to follow up actions.



- **Amber Cutler**, staff attorney for the National Senior Citizens Law Center, described the revamping of California's long term care system (renamed "long term services and supports, or LTSS) under the Affordable Care Act. The presentation was followed by a panel of responders who described the implications for older Californians, how the state's elder justice system is being affected, and what advocates can do to learn more.

- Delegates committed to ongoing action and unanimously supported a resolution calling for state leaders to establish a special joint committee, task force, or blue-ribbon panel to examine the state's laws and regulatory framework for addressing and mitigating elder and dependent adult abuse.

For more on the summit, including follow-up activities, the resolution, delegates' commitments, and background materials, visit CEJC's website at ElderJusticeCal.org.

Tell us your news!



Every day brings important new developments in elder justice and abuse prevention. Help us keep our colleagues informed by sharing updates on your new products, projects, and activities. We also welcome your thoughts and comments. You can reach us by [clicking here](#).

State and local news

Leg Round-up

The following bills have been signed by the Governor.

- **AB 140 (Dickinson)**: Changes the definition of undue influence in the civil code to mean excessive persuasion that causes another person to act or refrain from acting by overcoming that person's free will, resulting in inequity. The bill would require, in determining whether undue influence was employed, consideration of 4 factors: 1) the vulnerability of the victim, 2) the influencer's authority, 3) the actions or tactics used by the influencer, and 4) the fairness of the result.

- **AB 663 (Gomez)**: Integrates cultural competency and sensitivity toward aging lesbian, gay, bisexual, and transgender communities into the training received by residential care facility administrators.

- **SB 609 (Wolk)**: Creates the Long-Term Care Ombudsman Program Improvement Act Account and increases the fine from \$1,000 to \$2,500

that facilities must pay if they willfully interfere with the Ombudsman's access to residents or their records.

In other legislative news:

As previously reported, the California Commission on Aging spearheaded SB 60 to include victims of elder financial abuse within the definition of crimes that are eligible for victim compensation. Although the bill was chaptered, the provisions for victims of elder financial abuse were removed and CCoA withdrew its support. CCoA is considering future options.



Photo from Frontline's "Life and Death in Assisted Living"

California's EJ Shortcomings Spotlited

In a report jointly produced by KQED and The Center for Investigative Reporting about California's backlog of abuse cases against caregivers by state regulators and law enforcement, investigators conclude that "California regulators routinely have conducted cursory and indifferent investigations into suspected violence and misconduct committed by hundreds of nursing assistants and in-home health aides – putting the elderly, sick and disabled at risk over the past decade." Documents obtained by CIR revealed that the California Department of Public Health dismissed nearly 1,000 pending cases of abuse and theft over the past decade. The findings are posted on CIR's website. To view, [click here](#).

Another joint investigation by *The Union-Tribune of San Diego* and the Center for Health Reporting at the University of Southern California examined more than 80 possible crimes at San Diego County residential care facilities in the past 10 years for which criminal investigations were never launched or fizzled out due to delays. The findings were featured in a 3-installment series in **UT San Diego** entitled "**Deadly Neglect.**" The report describes cases of residents being injured, molested and dying from neglect; in some, caregivers failed to call 911 or summon medical aid for residents in need of higher levels of care. The report further concludes that regulators, overwhelmed by rising workloads, regularly fail to refer possible crimes to prosecutors and that the Department of Social Services police force has not made an arrest in nine years. The article further points out that California is one of only two states in the country that delegates assisted living oversight to a Department of Social Services, with 37 states giving that power to their departments of health or public health.

Asked by the investigators to respond to the findings, California lawmakers had this to say:

- **Senator Leland Yee** of San Francisco, chair of the Senate Committee on Human Services, said he plans to hold a hearing on assisted living and elder care when the Legislature reconvenes next year.

- "Nobody should die due to neglect or poor care in any senior facility... increased inspections will lead to safer senior facilities and no amount of fines will substitute for the necessity of regular inspections." **Sen. Joel Anderson**, Vice chairman of the Senate Health Committee
- "We definitely need to speed up and increase inspections. We should probably look at the fine structure, too." **Assemblyman Richard Pan**, Chair, Assembly Health Committee.
- "I will be looking closely at these suggestions as well as any others that present themselves during the course of my review of the issues." **Assembly Majority Leader Toni Atkins**, referring to recommendations contained in the report.
- "We must explore all possible causes as well as solutions such as looking at recent cuts to the social safety net and considering making reinvestments as needed." **Assemblywoman Shirley Weber**
- "It is clear that \$150 is far too low." **Senate Health Committee Chairman Ed Hernandez**, responding to the disclosure that the maximum fine for injury or death at a facility is \$150. To view the series, [click here](#).

And finally, California was also singled out on a **Frontline** show entitled "**Life and Death in Assisted Living**," which highlighted the findings of a yearlong investigation by *ProPublica's* Pulitzer Prize-winning reporter **A.C. Thompson**. In emphasizing the lack of oversight in facilities by the federal government, Thompson observes that California's 7,500 assisted living facilities are only inspected on a regular basis every five years. He concludes:

"Assisted living is a great option for a lot of people and was created to fill a real need. But they are un- or under-regulated by states and prone to chronic understaffing, often by poorly trained, managed or screened care providers, and too frequently end up exploiting seniors or those with disabilities in their care...There's incredible pressure on people working for the big chains to move in as many people as possible. And that can lead to decisions to move in seniors who shouldn't be there. They may have psychiatric problems or serious behavioral problems and should be in a nursing home or a hospital."

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



Cal MediConnect Postponed

CMS and the state of California have determined that Cal MediConnect, California's pilot project to promote coordinated health care delivery to seniors and people with disabilities who are dually eligible for Medicare and Medi-Cal, will begin no earlier than April 1, 2014. The stated reason for the delay is to ensure that beneficiaries enrolled in demonstration plans will receive high quality, coordinated care.

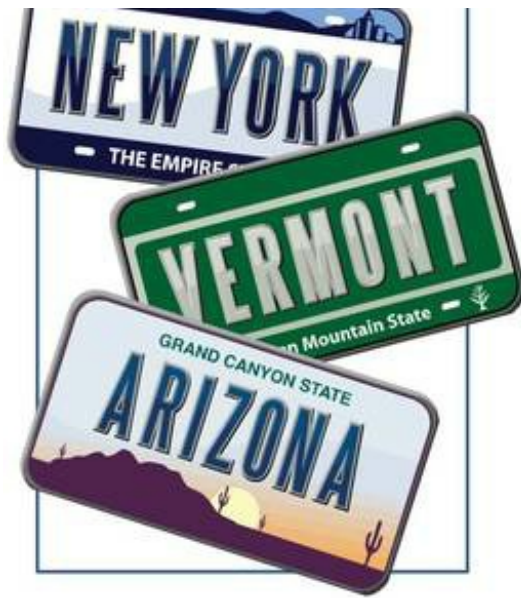
Access to Justice: Civil Law Meets Social Work in Financial Abuse

San Francisco's Institute on Aging is hosting a half-day conference bringing together experts in social work and civil law to discuss best practices and share interdisciplinary perspectives on elder financial abuse. The goal is to cross-educate members of the two professions to foster better and more frequent referrals from social workers to civil attorneys and encourage civil attorneys to collaborate with social workers. The event will be on Wednesday, October 30, at noon. For more information, [click here](#).

News from elsewhere



New York Launches "Risk and Resiliency" Internship



Program

In a recent posting on its blog, the NYC Elder Abuse Center announced its Risk and Resiliency Internship Program and named its 2013 interns. The blog posting further highlights other elder justice internship programs, including the “Elder Justice and Policy Keystone course” taught through William Mitchell College of Law in St. Paul, MN, and The Senior Justice Program University based at the University of Arkansas at Little Rock. To view the blog, [click here](#).

Vermont Lawsuit Prompts APS Oversight

After battling it out in court for nearly two years, Vermont officials and the two advocacy groups that sued the state for

inadequate APS investigations have reached an agreement. In 2011, Vermont Legal Aid and Disability Rights Vermont sued the Department of Disabilities, Aging and Independent Living for routinely failing to adequately investigate complaints of abuse, neglect, and exploitation of elderly and disabled adults. A 2012 report commissioned by the 2 organizations cited the state for improper screening of cases 57% of the time, substantial delays in starting and completing investigations, numerous instances of complaints that should have been classified as substantiated or were rejected because of incomplete investigations, and repeated failures to provide written plans detailing how to remedy unsafe situations. Under a settlement reached last August, the parties agreed to jointly select a non-governmental panel that will meet quarterly to review a sample of case files to determine if APS staff have responded to complaints within new time limits, made the right decisions about rejecting or pursuing complaints, and implemented appropriate remedies. The quarterly reviews will continue until APS achieves four consecutive months of compliance with new benchmarks set out in the settlement, such as new deadlines for evaluating complaints and starting investigations. If APS fails to meet the benchmarks, Vermont Legal Aid and Disability Rights Vermont could go back to court.

Arizona Hospital Sued Under “Elder Abuse” Laws

In July, Arizona’s Court of Appeals ruled that Arizona hospitals are subject to being sued under the state’s “elder abuse” laws. The ruling negates the contention of the lawyers for two major hospitals that the laws were designed to give individuals and their families a way to bring suit against nursing homes and assisted care facilities only and did not apply to acute care hospitals. For more, [click here](#).

Mandatory Reporting Across the U.S.

The National Adult Protective Services Association (NAPSA) recently posted the results of the 2013 Nationwide Survey of Mandatory Reporting Requirements for Elderly and/or Vulnerable Persons. The document, created by **Liz Loewy**, Assistant District Attorney and Elder Abuse Unit Chief with the New York County District Attorney's Office, lists current state-by-state mandatory reporting information, with citations for each state's statutes. The document is available on the NAPSA website at <http://www.napsa-now.org>.

National news

Older Americans Act Amendments Proposed to Strengthen APS

Senator Bernie Sanders, Chairman of the Senate Subcommittee on Primary Health and Aging, and fourteen



cosponsors have introduced S.1028, which adds language to the Older Americans Act promoting federal, state, and local efforts to protect older persons from elder abuse, neglect, and exploitation consistent with the Elder

Justice Act. It would create a State Home Care Ombudsman Program, require that States have a Home Care Consumer Bill of Rights, and create a permanent National Adult Protective Services Resource Center. To read a fact sheet on the bill, [click here](#). To read the bill in its entirety, [click here](#).

Senator Richard Blumenthal and five cosponsors have introduced another bill, S.1019 "to authorize Federal assistance to State adult protective services programs." The bill would also create a National Adult Protective Services Resource Center, and provides detailed specifications for its operation. It would require State Units on Aging to "develop and implement standardized protocols for screening and reporting with respect to elder abuse" and to provide training to aging services agencies on identifying, reporting and responding to elder abuse, neglect and exploitation.

Reports/Research

Federal Regulators Issue Guidance on Reporting Financial Abuse

Seven federal regulatory agencies have issued guidance to clarify that the privacy provisions of the Gramm-Leach-Bliley Act permit financial institutions to report suspected elder financial abuse to appropriate authorities. The Act requires that a financial institution notify consumers and give them an opportunity to opt out before providing nonpublic personal information to a third party. Today's guidance clarifies that it is generally acceptable under the law for financial institutions to report suspected elder financial abuse to appropriate local, state, or federal agencies. For a copy of the guidelines, [click here](#).

2013 OVC Report to Nation on Victim Services

"*Transforming Today's Vision into Tomorrow's Reality*," a new report by the Office for Victims of Crime (OVC), describes progress made in fiscal years (FYs) 2011–2012 in upholding crime victims' rights and providing services to victims, survivors, and communities affected by crime. Information of special interest contained in the report includes:

- The Crime Victims Fund had record-breaking deposits in FYs 2011–2012.
- The *Vision 21: Transforming Victim Services* Final Report summarizes OVC's strategic initiative to transform the crime victims field in the 21st century.
- Financial data and statistics showing funds allocated to states and territories for victim services, the number of victims receiving compensation and direct assistance, and more.
- Capsule summaries of innovative programs and projects that focus on efforts to expand and enhance victim services throughout the country. The report is unavailable during the government shut down.

Top Ten Consumer Complaints

The Consumer Federation of America and the North American Consumer Protection Investigators released their annual survey about the most common, fastest growing, worst, and new complaints that state and local consumer agencies received last year. For more, [click here](#).

Caring for Grandkids Heightens Vulnerability

A report by UCLA's Center for Health Policy Research and the Insight Center for Community Economic Development, shows that California's 300,000 older adults who are the sole primary caregivers for their grandchildren "may be among the most vulnerable residents in California, due to the state's high cost of living and low levels of public assistance." According to the report,



nearly half of custodial grandparents who are 65 and over in California do not have enough income to cover the most basic needs of the grandchildren placed in their care. Yet many older adults in California are ineligible for public programs like Medi-Cal, housing subsidies, and food benefits because they have incomes that are above (often just slightly) the federal poverty level (FPL). The FPL for a family of three in 2011 was \$18,530 and for a family of two, \$14,710. The report estimates that to actually make ends meet, older couples with one grandchild who live in two-bedroom rentals need an income as high as \$49,942 if they live in Santa Cruz County and as low as \$32,965 if they live in Kern, the “lowest-cost” county. The study recommends raising the eligibility criteria for certain public programs to 200% of the FPL; extending state foster-care benefits to kinship caregivers; and limiting the frequency of benefit renewals since most older adults live on fixed incomes and thus do not experience income fluctuations.

Review of Research Analyzing APS Data

This literature review of 50 studies that used APS agencies, clients, data, or resources to test hypotheses regarding elder abuse notes the scarcity of studies on the effectiveness of APS and highlights the need for additional research. It further describes lessons learned and urges researchers and practitioners to work collaboratively to develop key practice-related questions about APS processes and outcomes that can be tested. See [Informing Evidence Based Practice: A Review of Research Analyzing Adult Protective Service Data](#)

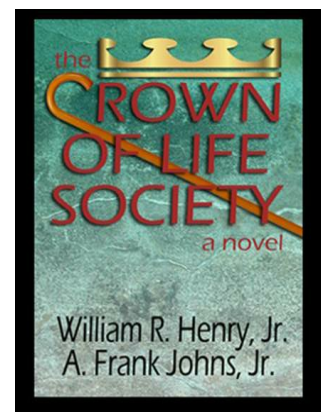
Elder Abuse Screening Tools in Primary Care

The National Adult Protective Services Resource Center, in conjunction with the National Committee for the Prevention of Elder Abuse (NCPEA) and the National Council on Crime & Delinquency (NCCD), has released a new Research to Practice (R2P) brief that evaluates screening instruments used in primary care settings from 2004 to 2011. The review of ten studies that met the review inclusion criteria revealed substantial progress in screening caregivers and elders. The report notes that while the studies provide important descriptive information, higher level evidence would require randomized controlled trials that cannot be conducted owing to ethical concerns. Three of the 10 studies were administered in healthcare environments and some evaluated less complicated screening instruments. This brief and others are available on NAPSA’s Research to Practice Page. To read the brief [click here](#).

Interesting Reads

Fiction Imitates Life

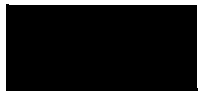
In case you don’t get enough elder abuse on the job, you can relax with *The Crown of Life Society*, a novel about financial elder abuse by writer **William Henry** and elder law attorney **A. Frank Johns, Jr.** Published as an e-book, the novel evolved from a *Washington Post* article Henry wrote several years ago about his wife’s experience serving as caregiver for her elderly cousin. After the cousin died, they learned he had written a “surprise will,” in which he’d given his house to his home health aide. The “Crown of Life Society” members are women who use stolen identities to exploit the elders in their care. For more, [click here](#).



Weighing In

- **Comments Sought for Proposed Grant Program Regulations**

OVC is seeking comments on a proposed regulation for the Victims of Crime Act (VOCA) Victim Assistance Formula Grant Program. The proposed regulation is posted to Regulations.gov for a 60-day comment period, ending October 28, 2013.



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