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# Reconceptualizing Elder Abuse: Treating the Disease of Senior Community Exclusion

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## I. INTRODUCTION

There is a critical need to address the problem of elder abuse in America. Innovative and creative ways to combat elder abuse are particularly important in the absence of federal support. Ultimately, elder abuse victims require access to legal remedies and a host of other services to stop abuse. Social support services, health care, and prevention must be integrated to address the problem of abuse systemically, rather than merely as the endpoint of the social environment that allows abuse to occur. Lessons from other, broader efforts must be reviewed and the needs of the elderly community should be joined to promote community - service systems that are responsive to the population to be served and their important requirements.

This paper presents a systems-oriented planning approach to proactively address elder abuse by reviewing the potential tools that are available to create a community service system to address and prosecute elder abuse while also determining the needs of community elderly. This multi-disciplinary concept utilizes legal services in conjunction with social and medical services to address immediate and long-term needs of abused elderly victims while empowering seniors to proactively avoid becoming victims.

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Part II presents the problem of elder abuse and provides background information that is necessary for understanding victims' needs in accessing legal remedies and support services. Domestic elder abuse, institutional abuse, and consumer fraud are briefly explored. Part III discusses remedies at law for victims of elder abuse, including a history of federal legislation pertaining to elder abuse and the funding of elder abuse programs, an overview of mandated reporting laws, and laws pertaining to multi-disciplinary teams. Because California has the largest population of elderly Americans,<sup>1</sup> criminal and civil elder abuse remedies under California law are examined as an example of the types of relief available to victims. Part IV reviews current team-approach programs designed to fight elder abuse, including profiles of the Elder Abuse Forensic Center in Santa Ana, California, the Family Justice Center in San Diego, California, and the Elder Justice Centers in Tampa and Palm Beach, Florida. Part V outlines a system for determining the specific needs of seniors in the specific community and an approach to fulfill their medical, legal, and social services needs. Because all health care and social service needs are local, obtaining perspective and feedback regarding services and accessibility is essential in providing immediate and long-term relief for victims and estimating the best means for preventing harm through education and service. The information collected through this methodology can be incorporated into developing a responsive model that involves all stakeholders serving the senior population.

## II. ELDER ABUSE IN THE UNITED STATES

Elder abuse is a pervasive and complex problem. Given their large numbers and vulnerability, the elderly are prime targets for abuse. The statistics are astonishing: every nineteen seconds an elderly person is abused,<sup>2</sup> while every week more than twenty older Americans die in homicide-suicides, which usually involves a husband killing his wife and then himself.<sup>3</sup> Additionally, there are over 550,000 cases of elder abuse

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1. ADMIN. ON AGING, U.S. DEP'T OF HEALTH & HUMAN SERVS., A PROFILE OF OLDER AMERICANS: 2004 9 (2004), available at <http://www.aoa.gov/prof/Statistics/profile/2004/2002profile.pdf>. In California in 2003, there were 3,764,870 million people sixty-five and older, which equaled 10.6% of the population. Conversely, Florida had the largest percentage of sixty-five and older population of all ages at 17%, but the actual number of persons sixty-five and older was less than California at 2.9 million. Also, in 2000, the greatest number of centenarians (5,341) lived in California. LISA HETZEL & ANNETTA SMITH, U.S. CENSUS BUREAU, THE 65 YEARS AND OVER POPULATION: 2000 8 (2001), available at <http://www.census.gov/prod/2001pubs/c2kbr01-10.pdf>.

2. Martin Ramey, *Putting the Cart Before the Horse: The Need to Re-examine Damage Caps in California's Elder Abuse Act*, 39 SAN DIEGO L. REV. 599, 602 (2002).

3. Marsha Kay Seff, *Suicide-Homicide Among Elderly: on the Rise*, SAN DIEGO UNION-

reported every year, most of which involve abuse by family members.<sup>4</sup> Clearly this is a social plague that needs to be addressed.

### A. *The Elderly Population*

The population of older Americans is growing at such a rapid rate that government officials all across the country are taking notice. In 2004, 56% of the nation's governors discussed initiatives affecting people sixty-five and older in their state-of-the-state addresses.<sup>5</sup>

This focus is entirely appropriate given that the senior population is the fastest growing segment of the U.S. population.<sup>6</sup> In 2000, there were 35 million people sixty-five years or older in the United States.<sup>7</sup> This represents 12.4% of the U.S. population, or approximately one in every eight Americans.<sup>8</sup> By 2030, it is projected that the elderly population will double to approximately 70 million and represent fully 20% of the U.S. population - one in five Americans.<sup>9</sup> Furthermore, among the elderly, those citizens over age eighty-five years are the fastest growing segment; this population will double from 4.2 million in 2000 to 8.9 million in 2030.<sup>10</sup> At that time, there will be more people over age sixty-five than under age eighteen.<sup>11</sup> With this enormous increase in the elderly population, the problem of elder abuse will be exacerbated. Developing an understanding of legal remedies and models to develop community-focused, senior-specific services sensitive to the local community population is therefore imperative to systemically address the elder abuse issue.

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TRIB., Dec. 13, 2003, *available at* [http://eldercare.uniontrib.com/news/marsha/marsha\\_suicide.cfm](http://eldercare.uniontrib.com/news/marsha/marsha_suicide.cfm).

4. NAT'L CTR. ON ELDER ABUSE, THE NATIONAL ELDER ABUSE INCIDENCE STUDY, 3-2, 4-3 (1998), *available at* [http://www.aoa.gov/eldfam/Elder\\_Rights/Elder\\_Abuse/AbuseReport\\_Full.pdf](http://www.aoa.gov/eldfam/Elder_Rights/Elder_Abuse/AbuseReport_Full.pdf).

5. LAURA SUMMER ET AL., NAT'L GOVERNORS ASS'N CTR. FOR BEST PRACTICES, MEASURING THE YEARS: STATE AGING TRENDS & INDICATORS (2004), *available at* <http://www.nga.org/cda/files/04DATABOOK.pdf>.

6. U.S. CENSUS BUREAU, U.S. CENSUS 23190-7, ch. 2, at 2-1, *available at* <http://www.census.gov>.

7. HETZEL & SMITH, *supra* note 1, at 4.

8. Sarah S. Sandusky, *The Lawyer's Role in Combating the Hidden Crime of Elder Abuse*, 11 ELDER L.J. 459, 466 (2003) (citing the U.S. Census Bureau figures).

9. *Id.*

10. *Id.*

11. WIS. AGING AND DISABILITIES, NAT'L CLEARINGHOUSE ON ABUSE IN LATER LIFE, RESEARCH ON ABUSE IN LATER LIFE (2003), *available at* [http://www.ncall.us/docs/Abuse\\_In\\_Later\\_Life\\_Fact\\_Sheet.pdf](http://www.ncall.us/docs/Abuse_In_Later_Life_Fact_Sheet.pdf).

### B. Definition of Elder Abuse

The legal definition of elder abuse varies from state to state.<sup>12</sup> Absent a standard definition, elder abuse is, in general terms, action inflicting “unnecessary suffering, injury, pain, loss and/or violation of human rights, and a poor quality of life for the older adult.”<sup>13</sup> It is a term referring to “any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult.”<sup>14</sup>

### C. Types of Elder Abuse

Elder abuse includes physical abuse, emotional/psychological abuse, sexual abuse, financial exploitation, neglect, and abandonment.<sup>15</sup> Most reports of elder abuse involve multiple kinds of abuse.<sup>16</sup> Maltreatment can occur in an elder’s home, which is most common, or in institutions like assisted living or skilled nursing facilities. Perpetrators are usually someone the elderly victim knows, such as a family member.

#### I. Domestic Elder Abuse

Domestic elder abuse is the most common type and usually occurs as neglect.<sup>17</sup> The National Elder Abuse Incidence Study, the largest to date on

12. NAT’L ASS’N OF ADULT PROTECTIVE SERVS. ADM’RS, ELDER ABUSE AWARENESS KIT 4 (2001), available at <http://elderabusecenter.org/pdf/basics/speakers.pdf>. There is a lack of a standard definition of “elder abuse” with regard to specific ages that makes one “elderly,” as well as what constitutes abuse. Federal definitions of elder abuse first appeared in the 1987 Amendments to the Older Americans Act. These definitions were provided in the law only as guidelines because each state provides its own definition of elder abuse, which varies considerably from one jurisdiction to another. As a result, what constitutes abuse in one state may not in another. The lack of standardized definitions is problematic when researching abuse among the elderly and makes education about elder abuse difficult. *Id.*

13. Margaret F. Hudson, *Elder Mistreatment: A Taxonomy with Definitions by Delphi*, 14 J. ELDER ABUSE & NEGLECT 1, 1 (1991); see also Older Americans Act, 42 U.S.C. § 3002(13) (2000).

14. Nat’l Ctr. on Elder Abuse, Frequently Asked Questions, <http://www.elderabusecenter.org/default.cfm?p=faqs.cfm#one> (last visited Apr. 21, 2006).

15. NAT’L CTR. ON ELDER ABUSE, *supra* note 4, at 3-2 – 3-3 (noting that physical abuse is using physical force that results in bodily injury, pain or impairment of an elderly person; emotional/psychological abuse is inflicting emotional anguish or distress; sexual abuse is any kind of nonconsensual sexual activity or conduct; financial exploitation is illegal or improper use of an elderly person’s money or assets; neglect is failure to fulfill an obligation to take care of an elder; abandonment is desertion of an elderly person by someone who has assumed responsibility for the elder).

16. Akilah Johnson, *Advocate is Committed to Fighting Elder Abuse*, L.A. TIMES, Aug. 1, 2003, §2, at 2.

17. NAT’L CTR. ON ELDER ABUSE, *supra* note 4, at 4-13. Breakdown of statistics of victims experiencing abuse: neglect: 48.7%; emotional: 35.4%; physical: 25.7%; financial: 29.9%; and abandonment: 2.9%. *Id.*

this issue, reported that in almost 90% of reported cases, the perpetrator was a family member.<sup>18</sup> Forty-seven percent of abusers are adult children, then followed by spouses (19%), other family members (24%), and non-related caregivers (10%).<sup>19</sup>

## 2. Institutional Abuse

In addition to abuse in domestic settings, elder abuse occurs in institutions such as skilled nursing facilities and assisted living facilities. Incidences of institutional abuse are relatively small compared to incidences of abuse that occur in the home. This is generally attributed to the fact that only 4.5%, or 1.5 million, of the sixty-five-and-older population live in nursing homes.<sup>20</sup> In 2004, the California Attorney General's Office filed ninety-three criminal cases for institutional elder abuse, which resulted in fifty-three criminal convictions.<sup>21</sup> That same office also obtained three civil judgments.<sup>22</sup> Restitution and penalties totaled \$30,910.<sup>23</sup> This limited number of convictions and amount of recovery illustrates the minimal effectiveness of current efforts.

## 3. Consumer Fraud Against the Elderly

The elderly are highly vulnerable targets for consumer fraud. Scamming the elderly is easier and more lucrative than committing other types of crimes, such as bank robbery. The average bank robber nets \$2000 for each heist, while defrauding one elderly victim brings an average take of \$60,000.<sup>24</sup> Common scams include fraudulent prizes and sweepstakes, investments, charitable contributions, home and automobile repairs, loans and mortgages, trust mills, health remedies, and telemarketing.<sup>25</sup> A recent FBI investigation found that 80% of fraudulent telemarketers were targeting

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18. *Id.* at 4-28. Breakdown of statistics of perpetrators of elder abuse: 47 percent are children, 6 percent are siblings, 9 percent are grandchildren, 19 percent are spouses, and 9 percent are "other relative." *Id.*

19. *Id.*

20. ADMIN. ON AGING, *supra* note 1, at 5. However, the percentage of elderly who are institutionalized increases dramatically with age. For persons 65-74 years old, 1.1% resides in institutional settings. For persons 75-85 years old, the number increases to 4.7%. Persons 85 or older have the largest rate of institutionalization at 18.2%. *Id.*

21. Bureau of Medi-Cal Fraud & Elder Abuse, Cal. Dep't of Justice, Elder Abuse in Nursing Homes, <http://caag.state.ca.us/bmfea/elder.htm> (last visited Apr. 13, 2006).

22. *Id.*

23. *Id.*

24. Johnson, *supra* note 16.

25. KELLY DEDEL JOHNSON, U.S. DEP'T OF JUSTICE, FINANCIAL CRIMES AGAINST THE ELDERLY (PROBLEM-ORIENTED GUIDES FOR POLICE, PROBLEM-SPECIFIC GUIDES SERIES NO. 20) 1-4 (2003), available at <http://www.cops.usdoj.gov/mime/open.pdf?Item=963>.

older consumers.<sup>26</sup> In a 2001 study by the American Association of Retired Persons (“AARP”), 56% of the names on “mooch lists”<sup>27</sup> were aged fifty or older.<sup>28</sup> Losses due to consumer fraud against the elderly are in the billions of dollars.<sup>29</sup>

#### *D. Incidence and Epidemiology of Abuse*

Elder abuse is rarely reported, even in the context of states enacting mandatory reporting laws. The American College of Obstetricians and Gynecologists estimated in 1990 that four out of five cases of elder abuse go unreported.<sup>30</sup> In 1996, neglect was the most common type of elder abuse (55%), followed by physical abuse (14.6%), financial exploitation (12.3%), and emotional abuse (7.7%).<sup>31</sup> The median age of elder abuse victims was 77.9.<sup>32</sup> In addition, 66.4% of elder abuse victims were white, 18.7% were African-American, and 10.4% were Hispanic.<sup>33</sup>

Women are more frequently victims of abuse than men.<sup>34</sup> Women who are eighty years of age and older are especially at risk because they are abused two-thirds more often than other elderly victims.<sup>35</sup> The level of abuse underscores the need to develop a systemic method to address abuse by holding perpetrators accountable for their actions as well as focusing on efforts to create an infrastructure sensitive to local senior needs to keep

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26. Lisa A. Guion et al., *Design, Implementation, and Evaluation of an Elder Financial Abuse Program*, 42 J. EXTENSION (2004), available at <http://www.joe.org/joe/2004june/a6.shtml>.

27. *Id.* “Mooch lists” are “[w]hat fraudulent telemarketers call their lists of most likely victims.” *Id.*

28. *Id.*

29. *Id.*

30. AM. COLLEGE OF OBSTETRICIANS & GYNECOLOGISTS, FACT SHEET, [http://www.acog.org/departments/dept\\_notice\\_cfm?recno=17&bulletin=186](http://www.acog.org/departments/dept_notice_cfm?recno=17&bulletin=186) (last visited Apr. 21, 2006).

31. NAT’L CTR. ON ELDER ABUSE, ELDER ABUSE INFORMATION SERIES NO. 1, TYPES OF ELDER ABUSE IN DOMESTIC SETTINGS, available at <http://www.elderabusecenter.org/pdf/basics/fact1.pdf> (last visited Apr. 13, 2006).

32. *Id.*

33. *Id.*

34. NAT’L CTR. ON ELDER ABUSE, NAT’L ELDER ABUSE INCIDENCE STUDY, *supra* note 4, at 4-17. Females were abused in greater numbers in cases of neglect (60%), emotional abuse (76.3%), physical abuse (71.4%), and financial abuse (63%). The only category where cases involved more men than women was in abandonment. Men were abandoned in 62.2% of cases whereas women were abandoned in 37.8% of cases. *Id.* See also Nat’l Clearinghouse on Abuse in Later Life, <http://www.ncall.us> (last visited Apr. 21, 2006) (reporting that the majority of older victims are women).

35. NAT’L CTR. ON ELDER ABUSE, *supra* note 4, at 4-13. Elderly victims aged 80 and older were the highest category in neglect (51.8%), emotional abuse (41.3%), physical abuse (43.7%), and financial abuse (48%). *Id.*

them engaged and connected to the community. It is imperative to create a system that ensures consistent assessment of their status.

### III. ELDER ABUSE LAW, POLICY AND PROGRAMS

There are legal tools available to prosecute elder abuse. Relief for victims is available through both the civil and criminal justice systems.<sup>36</sup> Other social service support is also at least theoretically available. However, legal remedies have to be accessible to be effective, social services must be provided with adequate resources to work as contemplated, and programs must understand the needs of the senior population to function as planned.

This section presents a review of pertinent federal and state elder abuse legislation, program funding, and elder abuse programs. Because California has the largest population of elderly Americans,<sup>37</sup> that state's criminal and civil remedies are examined to demonstrate the types of relief that are available to victims.

#### *A. History*

Elder abuse is an issue that has been discussed in the U.S. legislature since 1981, when the House Select Committee on Aging issued a report entitled, *Elder Abuse (An Examination of a Hidden Problem)*.<sup>38</sup> At that time, it was estimated that one in twenty-five Americans were victims of elder abuse per year.<sup>39</sup> The report recommended passage of an act that provided funding for elder abuse programs in every state, which was modeled after the Child Abuse Prevention and Treatment Act of 1974.<sup>40</sup> However, no action was taken.<sup>41</sup> A decade later, that same committee

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36. See, e.g., *infra* Part II.B-C. See also DOUGLAS LAYCOCK, MODERN AMERICAN REMEDIES 3 (3d ed. 2002). The basic principle of compensatory remedies in a court of law is to return an injured plaintiff to his or her rightful position, to be made whole, to be in the same position the plaintiff was in prior to being harmed. *Id.*

<sup>37</sup>ADMIN. ON AGING, *supra* note 1, at 9. In 2003, about half of persons aged sixty-five years and over lived in nine states. California had over 3.8 million, Florida 2.9 million, New York 2.5 million, Texas 2.2 million, and Pennsylvania 1.9 million. Ohio, Illinois, Michigan, and New Jersey each had well over 1 million. *Id.*

38. Sandusky, *supra* note 8, at 462. See also H.R. REP. NO. 97-277, at iii (1981) (stating that "the subject of elder abuse had been of great concern to the members of the House Select Committee of Aging from the time the Committee was created in 1974"). The issue of elder abuse was first raised during a hearing before a subcommittee of the House of Representatives on the subject of domestic violence. Also, it was the House Select Committee of Aging that decided on the term "elder abuse" to depict parent battering. *Id.*

39. H.R. REP. NO. 97-277, at xiv-x.

40. *Id.*

41. Sandusky, *supra* note 8, at 462.



issued another report entitled, *Elder Abuse: A Decade of Shame and Inaction*.<sup>42</sup> Even though the number of estimated victims had increased from one million per year in 1980 to 1.5 million in 1990,<sup>43</sup> the legislature still took no action.<sup>44</sup>

Despite almost three decades of hearings, Congress continued to ignore issues of elder abuse and failed to pass a comprehensive elder abuse law.<sup>45</sup> The Elder Justice Act of the 108th Congress (“EJA”) was the most recently stalled effort. EJA was a bi-partisan bill<sup>46</sup> that would have elevated the epidemic of elder abuse to the national agenda. It would have provided funds to support elder abuse research and improved detection of elder abuse. In addition, Adult Protective Services (“APS”), chronically-underfunded state agencies that are responsible for addressing elder abuse, would have received federal funding and guidance along with prosecution and victim assistance programs and public awareness campaigns about elder abuse.<sup>47</sup> Yet like its predecessor, the 109th Congress failed to attend to this pervasive social problem.

Despite the lack of comprehensive federal law, over the years the issue of elder abuse has been incrementally and fragmentally addressed through amendments to the Older Americans Act (“OAA”). Congress enacted the OAA in 1965, which steers policy regarding older Americans for state and local activities.<sup>48</sup> Title VII, Chapter 3, of the statute provides for the prevention of elder abuse, neglect and exploitation.<sup>49</sup> Title VII, Chapter 2, establishes the Long-Term Care Ombudsman Program that theoretically advocates for residents in long-term care facilities.<sup>50</sup> However, the funding for elder abuse programs is dreadfully inadequate.<sup>51</sup> Many federal programs have never been funded, including programs such as the Legal Assistance Program, which would provide legal protection against financial

42. H.R. REP NO. 101-752 (1990).

43. *Id.* at xi.

44. Sandusky, *supra* note 8, at 463.

45. NAT’L COMM. FOR THE PREVENTION OF ELDER ABUSE, 2005 WHITE HOUSE CONFERENCE ON AGING POST-EVENT SUMMARY REPORT 2 (2005). Problems that are comparable to elder abuse for which federal laws have been passed include child abuse and domestic violence. *Id.*

46. Elder Justice Act, S. 333, 108th Cong. (2003).

47. NAT’L COMM. FOR THE PREVENTION OF ELDER ABUSE, *supra* note 45, at 2-3.

48. Older Americans Act of 1965, 42 U.S.C. §§ 3001-3058 (2000). See generally THEODORE H. KOFF & RICHARD W. PARK, AGING PUBLIC POLICY BONDING THE GENERATION (Jon Hendricks ed., 2d ed., Baywood Publishing Co. 1999) (presenting an historical overview of public policy and federal legislation pertaining to older Americans from the beginning of the United States to the 1990s).

49. NAT’L COMM. FOR THE PREVENTION OF ELDER ABUSE, *supra* note 45, at 4.

50. *Id.*

51. *Id.*

abuse of the elderly.<sup>52</sup>

There have been limited positive steps. In 1992, the OAA established the National Center on Elder Abuse (“NCEA”), which was created to advise policy makers on the issue of elder abuse, conduct and compile research, and promote multidisciplinary collaboration.<sup>53</sup> Funding for NCEA comes primarily from the U.S. Administration on Aging.<sup>54</sup> One of NCEA’s major contributions to the field of elder abuse was completion of the National Elder Abuse Incidence Study in 1996.<sup>55</sup> The results of this study were issued in 1998 and were the first to estimate national incidence rates of elder abuse.<sup>56</sup>

### *B. Mandated Reporting and Adult Protective Services*

In an effort to increase detection of elder abuse, most states have enacted mandatory reporting laws.<sup>57</sup> In each of the fifty states, the Adult Protective Service is the primary authority charged with investigating reports of suspected domestic elder abuse.<sup>58</sup> Particularly in the case of nursing homes, some states require reports of institutional elder abuse to be filed and investigated through the ombudsman program.<sup>59</sup>

In California, a statutorily mandated reporter is “[a]ny person who has assumed full or intermittent responsibility for the care or custody of an

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52. *Id.*

53. NAT’L CTR. ON ELDER ABUSE, FACT SHEET, *available at* <http://www.elderabusecenter.org/pdf/FactSheet050+30.pdf> (last visited Apr. 21, 2006)

54. *Id.*

55. Sandusky, *supra* note 8, at 462. The National Center on Elder Abuse was directed to conduct the study by Congress through the Family Violence Prevention and Services Act of 1992. The report studies substantiated incidences of elder abuse that were reported to APS nationwide. *Id.*

56. *Id.* at 462-63.

57. ALICE YICK FLANAGAN, ELDER ABUSE: CULTURAL CONTEXTS AND IMPLICATIONS 20 (CME Resource 2003). Two states have limited reporting requirements. New York and New Jersey mandate practitioners to report only in cases where the elder is residing in institutional settings like nursing homes. Also, those people who are mandated reporters vary from state to state. In Illinois, licensed counselors are specified as mandated reporters. In sixteen states, mental health professionals are mandated reporters, twenty states require psychologists to report, four states require family and marriage counselors to report, and thirty-nine states require social workers to report elder abuse. Currently, five states encourage but do not mandate reporting. Colorado, North Dakota, Pennsylvania, South Dakota, and Wisconsin do not mandate reporting of elder abuse. *Id.*

58. CAL. WELF. & INST. CODE §§ 15650(a), (b). This includes the medical and health care community, family members, paid and non-paid caregivers, and clergy, to name a few. *Id.*

59. Nat’l Ctr. on Elder Abuse, Laws and Legislation, <http://www.elderabusecenter.org/default.cfm?p=lawslegislation.cfm> (last visited Apr. 21, 2006).

elder."<sup>60</sup> Any professional who provides care or services to the elderly is also a mandated reporter.<sup>61</sup> The legal standard for reporting potential abuse is "knowledge" or "reasonable suspicion" that an abusive event has taken place.<sup>62</sup> Although most states extend immunity to good faith reporters and impose civil penalties for failures to report, other states, such as Virginia, have enacted criminal penalties for making false elder abuse reports.<sup>63</sup>

Several states have recognized that multi-agency, multi-disciplinary communication is needed to combat elder abuse effectively.<sup>64</sup> For example, California mandates cross-reporting of suspected elder abuse cases between APS and law enforcement.<sup>65</sup> Other states require collaboration between governmental agencies. For example, Maine added a requirement that APS must cross-report to law enforcement agencies in certain cases.<sup>66</sup> Virginia directs APS to work collaboratively with other state agencies to facilitate reporting.<sup>67</sup> In addition, the state has also added a provision that requires persons who suspect that abuse or neglect as the cause of death of an elderly person to report to both the medical examiner and law enforcement agency, even in cases where a physician has signed a death certificate.<sup>68</sup> The medical examiner and law enforcement agency can order an investigation or autopsy if necessary.<sup>69</sup> Similarly, Kentucky requires APS to alert law enforcement within twenty-four hours of receiving a report or to give immediate notice in emergency cases.<sup>70</sup> Recent Kentucky legislation also increases the prosecutorial duties of county attorneys.<sup>71</sup> Dependent on the availability of adequate personnel, prosecutors are required to use an

60. CAL. WELF. & INST. CODE § 15630 (West Supp. 2006).

61. *Id.*

62. *Id.*

63. LORI A. STIGEL ET AL., ANALYSIS OF 2004 STATE LEGISLATION AMENDING ADULT PROTECTIVE SERVICES LAWS, *available at* <http://www.elderabusecenter.org/pdf/publication/APSLegSummary2004.pdf> (last visited Apr. 21, 2006).

64. Admin. on Aging, U.S. Dep't of Health and Human Servs., Summary of Key Changes in the 2000 Amendments, [http://www.aoa.gov/about/legbudg/oaal/legbudg\\_oaa\\_unofficial\\_comp.asp](http://www.aoa.gov/about/legbudg/oaal/legbudg_oaa_unofficial_comp.asp) (last visited Apr. 21, 2006).

In federal legislation, the concept of corroboration was suggested in the OAA amendments of 2000, where Congress said that states should increase coordination between law enforcement and the courts. *Id.*

65. CAL. WELF. & INST. CODE § 15640 (West 2005) (mandating cross-reporting between APS and law enforcement).

66. STIGEL ET AL., *supra* note 63.

67. *Id.*

68. *Id.*

69. *Id.*

70. *Kentucky: Emergency Elder Abuse Legislation Signed into Law*, NAT'L CTR. ON ELDER ABUSE, NEWSLETTER, June 30, 2005, <http://www.elderabusecenter.org/news/nceaenews050630.cfm>.

71. *Id.*

attorney trained in elder abuse and have a lead prosecutor for elder abuse cases.<sup>72</sup> Also, when appropriate, prosecutors are required to make referrals to outside agencies for support services when a case is not prosecuted.<sup>73</sup>

### C. Funding of Elder Abuse Programs

Sufficient funding is a major issue for programs aimed at fighting elder abuse. Many program implementation centers, such as APS, are consistently underfunded by the federal government.<sup>74</sup> For example, only 2% of federal funding devoted to dealing with citizen abuse goes to elder abuse and *less than* 1% of research money for aging issues addresses elder abuse.<sup>75</sup> The Social Services Block Grant (“SSBG”), found in Title XX of the Social Security Act, is the only source of federal funding for APS.<sup>76</sup> In thirty-four states, APS is supported entirely or partially with federal SSBG funds and with little or no state funds.<sup>77</sup> Furthermore, in states where APS relies entirely on federal SSBG support, funding is not guaranteed because there are many agencies competing for SSBG dollars<sup>78</sup> and hence allocation is often based upon political expediency.

APS reliance upon SSBG support also subjects it to other vulnerabilities on the federal level: Congress eyes SSBG funds for budget reductions on a regular basis. Between 1981 and 1990, Congress decreased SSBG funding by approximately one-third and as a result, protective services for the elderly was reduced to an average of \$3.80 per senior.<sup>79</sup> By 1990, there were ten states that spent less than \$1 per elder on adult protective services.<sup>80</sup> This statistic is stunning, particularly when compared to spending for protective services for children, which totaled \$45 per child at the time.<sup>81</sup> Congressional SSBG funding reductions have required states to cut critical programs and APS and services for the elderly are easy targets.<sup>82</sup>

Unfortunately, the future of federal funding remains gloomy. In June 2005, the House Appropriations Subcommittee on Labor, Health and

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72. *Id.*

73. *Id.*

74. NAT'L COMM. FOR THE PREVENTION OF ELDER ABUSE, *supra* note 45, at 3.

75. *Id.*

76. *Id.*

77. *Id.*

78. *Id.* Other important constituencies include vulnerable children, disabled persons and homeless persons. *Id.*

79. Sandusky, *supra* note 8, at 464.

80. *Id.*

80. *Id.*

81. *Id.*

82. NAT'L COMM. FOR THE PREVENTION OF ELDER ABUSE, *supra* note 45.

Human Services, Education, and Related Agencies (“Labor HHS Ed”) completed its mark-up of the fiscal year 2006 spending bill and the results are dismal.<sup>83</sup> SSBG would remain at the fiscal year 2005 level of \$1.7 billion – the same it has been since the mid 1990s.<sup>84</sup> The 2006 spending bill for Title VII Vulnerable Elder Rights Protection Activities under the OAA would increase only \$72,000 from 2005 – this increase is for the entire U.S. services provision of elder right protection.<sup>85</sup>

#### *D. California Civil Statutes*

When elderly people experience abuse, they can seek relief through civil remedies. In California, civil elder abuse litigation is governed by the Elder Abuse and Dependent Adult Civil Protection Act (“EADACPA”), which was enacted in 1991.<sup>86</sup> EADACPA sets forth definitions and types of elder abuse, causes of action, and damages, as well as identifies mandated reporters and procedures for reporting suspected cases of abuse.<sup>87</sup>

Under EADACPA, civil actions involve prosecuting abuse and neglect of the elderly that result in great bodily harm or death, mental suffering or embezzlement.<sup>88</sup> Finding a civil defendant guilty of physical elder abuse and neglect requires clear and convincing evidence.<sup>89</sup> If it can be shown that the defendant was guilty of recklessness, oppression, fraud or malice while committing physical abuse and neglect, the plaintiff is awarded attorney’s fees and costs.<sup>90</sup> Cases of financial abuse employ a preponderance of the evidence standard.<sup>91</sup> Similar to cases of physical abuse, attorney’s fees and costs are awarded when financial abuse is proven by clear and convincing evidence of recklessness, oppression, fraud or malice.

Other provisions under EADACPA provide for protective orders and

83. *House Appropriation Subcommittee Completes Mark Up of FY 2006 Spending Bill*, NAT’L CTR. ON ELDER ABUSE NEWSLETTER, June 30, 2005, <http://www.elderabusecenter.org/enews/nceaenews050630.cfm>. See also HOUSE APPROPRIATIONS SUBCOMMITTEE ON LABOR, HEALTH & HUMAN SERVICES, EDUCATION, & RELATED AGENCIES, LABOR-HEALTH AND HUMAN SERVICES-EDUCATION AND RELATED AGENCIES APPROPRIATION – FY 2006, available at [http://www.acpm.org/2005-038%20\(H\).pdf](http://www.acpm.org/2005-038%20(H).pdf) (last visited May 1, 2006).

84. *House Appropriations Subcommittee Completes Mark Up of FY 2006 Spending Bill*, *supra* note 83.

85. *Id.*

86. See generally CAL. WELF. & INST. CODE §§ 15600-15675 (West 2005).

87. *Id.* EADACPA also addresses confidentiality issues, liability, evidentiary standards, and establishes public policy. *Id.*

88. CAL. WELF. & INST. CODE § 15656 (West 2005).

89. § 15657.

90. § 15657.

91. § 15657.5.

court designation, as well as outline legislative intent. Elderly victims may seek protective orders to enjoin defendants from committing acts such as abuse, intimidation, harassment, stalking, attacking, striking, making annoying phone calls or correspondence by mail.<sup>92</sup> The Act also designates jurisdiction to the probate court in civil elder abuse cases if a conservator has been appointed for the plaintiff prior to the initiation of the action for abuse.<sup>93</sup> The enumerated intent of EADACPA is to encourage attorneys to help abused elderly victims by litigating their cases in an attempt to return the elder to the same position as before the abuse took place.<sup>94</sup>

Outside of EADACPA, there are several other statutes pertaining to elder abuse. The California Probate Code prohibits persons convicted of elder abuse from receiving inheritances from their victims.<sup>95</sup> Also, a victim who is a party to a civil action and is over the age of seventy may petition the court for an expedited trial, which may begin within 120 days from the date the motion is granted.<sup>96</sup>

#### *E. California Criminal Statutes*

Elder abuse is also punishable under criminal law.<sup>97</sup> For example, in California, the principal elder-abuse statute is Penal Code Section 368, which defines misdemeanor physical abuse, felony physical abuse, and criminal financial abuse.<sup>98</sup> The law punishes “any person who . . . willfully causes or permits any elder or dependent adult to suffer . . . unjustifiable pain or mental suffering.”<sup>99</sup>

The misdemeanor elder abuse provision of Section 368(c) mandates that the “treatment of an elderly person in a way that is likely to cause great bodily harm or death in circumstances where the elder’s person or health may be endangered” is criminally punishable.<sup>100</sup> Perpetrators who violate

92. § 15657.03.

93. § 15657.3.

94. See generally CAL. WELF. & INST. CODE §§ 15600-15675 (West 2005). See also Brief for Appellant at 22, *In re Conservatorship of Joel Levitt*, Conservatee, 93 Cal. App. 4th 544, 113 Cal. Rptr. 2d 294 (No. B140538).

95. CAL. PROB. CODE § 259 (West 2005).

96. CAL. CIV. PROC. CODE § 36 (West Supp. 2006).

97. CAL. PENAL CODE § 368 (West Supp. 2006). The California Legislature “finds and declares that crimes against elders and dependent adults are deserving of special consideration and protection because elders and dependent adults may be confused, on various medications, mentally or physically impaired or incompetent, and therefore are less able to protect themselves, to understand or report criminal conduct, or testify in court proceedings on their own behalf.” *Id.*

98. §§ 368 (b)-(e).

99. § 368(b)(1).

100. § 368(c). The California Code defines an elder as a person who is sixty-five year of age or older. § 368(g).

this provision two or more times may receive a fine up to \$2000 or imprisonment of less than one year, or both.<sup>101</sup>

Under the felony provision for physical abuse, Section 368(b) provides that if physical abuse causes great bodily injury or death, perpetrators receive an additional three years in state prison if the victim is under seventy years old and five years if the victim is seventy years or older.<sup>102</sup> If elder abuse is the proximate cause of death, the abuser receives an additional sentence of five years for victims under seventy years of age and an additional seven years imprisonment if the victim is seventy years of age or older.<sup>103</sup>

Penal Code Section 368 also provides for punishment for caretakers and non-caretakers alike who commit theft, embezzlement, fraud, identity theft, forgery, or false imprisonment.<sup>104</sup> The code allows for court discretion to impose counseling as a condition of probation.<sup>105</sup> Generally, abuse under Section 368 may be considered a primary or secondary offense. When police officers take reports of abuse, Penal Code Section 368 is usually listed as the primary offense.<sup>106</sup> However, it may also be listed subsequent to a primary offense such as theft, assault or battery.<sup>107</sup>

Other legal provisions designed to facilitate civil and criminal elder abuse prosecution include expedited trials when an elderly person is a witness or victim in a case.<sup>108</sup> Criminal cases where a victim is at least seventy years old are to be given precedence over other criminal trials.<sup>109</sup> The statute also requires the trial to begin within thirty days of arraignment.<sup>110</sup>

In addition to laws specific to elder abuse, indirectly applicable statutes are available for strategic prosecution. For example, domestic violence

101. § 368(c).

102. §368(b)(2). Great bodily injury is defined as significant or substantial physical injury. § 12022.7.

103. § 368(b)(3).

104. §§ 368(d)-(f).

105. § 368(k).

106. Interview with Nancy Kulinski, Detective Sergeant, San Diego Police Dep't, in San Diego, Cal. (June 30, 2005). The Sergeant of Elder Abuse Crimes said § 368 is listed as the primary offense by police officers that take the reports if the victim of abuse is sixty-five years or older. *Id.*

107. Interview with Terri Abelar, Elder Advocate, Aging Solutions, in Temecula, Cal. (July 7, 2005). A common complaint by some elder advocates is that police officers do not list Penal Code § 368 as the primary offense when victims are sixty-five or older. However, City Attorneys and District Attorneys may prosecute as such. *Id.*

108. CAL. PENAL CODE § 1048(b) (West Supp. 2006).

109. § 1048(b).

110. § 1048(b). However, "nothing in this section shall be deemed to provide a statutory right to a trial within 30 days." §1048(c).

laws may be utilized in cases where elderly victims are abused by spouses or intimate partners.<sup>111</sup> The elderly can take advantage of California's mandatory domestic violence arrest policy, although no references to the "elderly" are explicitly made.<sup>112</sup> Also, elderly victims may obtain restraining orders, which can be issued *ex parte*.<sup>113</sup>

California's Penal Code also provides for "elder death review teams."<sup>114</sup> Counties have the authority to establish such interagency panels to help local agencies identify and review the suspicious deaths of elderly persons.<sup>115</sup> Review teams are designed to assist coroners in determining whether elder abuse or neglect contributed to or caused the death of the elderly victim.<sup>116</sup>

#### F. Other Interventions

While many states provide legal relief for victims of elder abuse through civil and criminal courts, many victims do not want to prosecute or litigate against their abusers. This is especially true in the common case of domestic elder abuse where the perpetrator is a family member.

Alternative options to help stop abuse in these cases may include revoking an existing power of attorney, seeking a replevin<sup>117</sup> action to recover property or money that was wrongfully taken, creating a trust that protects the victim's property and assets, revoking and re-writing a will that was changed under undue influence, and/or seeking an order to remove the perpetrator from the victim's property.<sup>118</sup>

Mediation is another alternative to litigation and prosecution. In the

111. CAL. FAM. CODE § 6211 (West 2004).

112. CAL. PENAL CODE §13700-01 (West Supp. 2006) (promoting the goal of protecting all persons from domestic violence).

113. CAL. FAM. CODE § 6218 (West 2004). A court may issue a Domestic Violence Restraining Order if the victim shows reasonable proof of a past act or acts of abuse. *Id.* at § 6300. Abuse means to intentionally or recklessly cause or attempt to cause bodily injury, sexual assault, or to place a person in a reasonable apprehension of imminent serious bodily injury to that person or another. *Id.* at § 6203. Further, an *ex parte* order may be entered to enjoin a party from molesting, attacking, striking, stalking, threatening, battering, harassing, telephone calling, destroying personal property, contacting by mail or coming within a specified distance of or disturbing the peace of another. *Id.* at § 6320.

114. CAL. PENAL CODE § 11174.5 (West Supp. 2006).

115. § 11174.5.

116. § 11174.5.

117. BLACK'S LAW DICTIONARY 602 (2d pocket ed. 2001). Replevin is an action for the repossession of personal property wrongfully taken or detained by the defendant.

118. Deanna Clingan-Fischer, *In Focus: Elder Abuse and the Legal Service Connection*, NAT'L CTR. ON ELDER ABUSE NEWSLETTER, May 2005, <http://www.elderabusecenter.org/enews/nceaenews050531.cfm>. Deanna Clingan-Fischer is the past chair of the National Association of Legal Services Developers. *Id.*



senior circumstance, courts in some states have implemented mediation programs to resolve conflicts related to conservatorship proceedings.<sup>119</sup> The goal of mediation in these cases is to address the issues that prompted a conservatorship petition. The process helps determine whether an alternative might be available that could address the underlying issues without infringing upon the elder's rights to direct and make decisions about his or her life.<sup>120</sup> This is an option that, when appropriate, could be coordinated at elder abuse centers.

#### IV. CURRENT MODELS OF ELDER ABUSE CENTERS

A multidisciplinary team construct is essential to providing elder abuse victims with access to legal remedies, as well as creating an infrastructure to provide community education to prevent abuse. This section profiles various team approach systems that are currently in place. Some states have mandates for creation of Multi-Disciplinary Teams ("MDTs"). For example, in California, legal mandates require that "each county shall designate an adult protective services agency to establish and maintain multidisciplinary teams . . . for the purpose of providing interagency treatment strategies."<sup>121</sup> Team members are specified, including APS, law enforcement, health care agencies, and mental health agencies.<sup>122</sup> There are

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119. Nat'l Comm. for the Prevention of Elder Abuse, Best Practice Models, <http://www.preventelderabuse.org/communities/best.html> (last visited Apr. 11, 2006). San Francisco's Superior Court initiated a mediation panel for conservatorship of adults. In certain cases, the judge formally orders the parties to mediation. The court monitors the cases closely and an attorney is appointed for every elder. If abuse and neglect is discovered while mediation is in progress, court appointed attorneys are charged with immediately informing the court. *Id.* The Center for Social Gerontology has studied the effectiveness of adult guardianship mediation programs for Ohio, Florida, Wisconsin, and Oklahoma. Ctr. For Social Gerontology, Guardianship & Alternatives, <http://www.tcs.org/guard.htm> (last visited Apr. 11, 2006).

120. Ctr. for Social Gerontology, Mediation and Aging, <http://www.tcs.org/med.htm> (last visited Apr. 11, 2006).

121. CAL. WELF. & INST. CODE § 15763(e) (West Supp. 2006); *see also* CAL. WELF. & INST. CODE § 15610.55 (West Supp. 2006) (defining MDTs).

122. While the law provides for MDTs, the effectiveness of team meetings is highly questionable, at least in some counties. For example, in San Diego, an MDT meets once a month for a "brown bag" lunch. Participants include the San Diego City Attorneys office, San Diego Police Department Elder Abuse Unit, the District Attorney who prosecutes elder abuse cases, and APS caseworkers and staff. There is no agenda for the meeting nor are minutes of the meeting recorded. The purpose of the meeting is for agencies to ask questions of the other agencies, provide information on the latest scams against the elderly, and clarify issues. There are no quantifiable, measurable results from the meetings. Notes on Brown Bag Luncheon, San Diego Police Dep't & Adult Protective Servs., June 29, 2005 (on file with author). There is also a quarterly gathering organized by the San Diego District Attorney's office. The majority of the meeting is spent on introductions and explaining what each agency does. There is no discussion of individual cases or ways to problem solve the

also provisions for confidentiality.<sup>123</sup> Of course, MDTs also exist outside of legal mandates. Critically, they provide some important service models in an effort to address elder abuse, regardless of the presence of law.

#### *A. Multi-disciplinary Teams*

Multi-agency, multi-disciplinary collaboration is the hallmark of multi-disciplinary teams.<sup>124</sup> In the context of elder abuse, MDTs generally speaking are groups of professionals from different disciplines who operate independently but periodically convene, review cases of abuse, and work together to resolve the issues in each case.<sup>125</sup> The fundamental premise of MDTs is that the services of many agencies need to be coordinated because no agency alone can stop abuse in the short and long term.<sup>126</sup> If efforts are not made collaboratively, there is a risk that actual and potential victims will fall between the cracks of the system.<sup>127</sup>

Education is a key function of MDTs. In addition to case review, teams produce informational material regarding the definitions, causes, and effects of elder abuse.<sup>128</sup> They attempt to provide education and training to a host of civic organizations, professionals, and the general public to raise awareness of the problem of elder abuse and for the purpose of increased reporting.<sup>129</sup> Education also includes raising awareness of options available to help stop abuse using legal, medical, and social interventions.<sup>130</sup>

While MDTs have a common goal to enhance the identification, investigation, and prosecution of elder abuse crimes, they vary considerably

cases. Again, there are no quantifiable, measurable results from the meetings. *See* Elder Abuse Council Meeting Announcement, May 15, 2006, San Diego, Cal. (on file with author).

123. CAL. WELF. & INST. CODE § 15633 (West 2001); CAL. WELF. & INST. CODE § 10850.1 (West 2001).

124. Nat'l Comm. for the Prevention of Elder Abuse, Multidisciplinary Team, <http://www.preventelderabuse.org/communities/mdt.html> (last visited Apr. 11, 2006).

*Id.* "Because victims have diverse and multiple needs, it is unlikely that any single agency can provide everything that is needed to stop abuse and treat its effects." Nat'l Comm. for the Prevention of Elder Abuse, Interagency Coordination, <http://www.preventelderabuse.org/communities/interagency.html> (last visited Apr. 11, 2006) [hereinafter Interagency Coordination].

126. Interagency Coordination, *supra* note 123. "When services are well coordinated, it reduces the need for multiple interviews, which cuts down on trauma and inconvenience for clients and reduces wasteful overlap and duplication." *Id.*

127. *Id.* "When it is likely that a client may need to be assessed or receive services from more than one service or program, joint investigations may reduce delays and reduce the need for multiple interviews."

128. Pamela B. Teaster et al., *A National Look at Elder Abuse Multidisciplinary Teams*, 15 J. ELDER ABUSE & NEGLECT 3/4, 91-106 (2003).

129. *Id.* at 105-106.

130. *Id.*

in the types and approaches taken.<sup>131</sup> Some teams review all types of elder abuse and neglect cases, while others review only financial abuse cases or are limited to fatality review teams or conservatorship.<sup>132</sup> MDTs also vary in the types of members allowed to participate<sup>133</sup> and are divergent in the adoption of case review guidelines,<sup>134</sup> the frequency of scheduled meetings,<sup>135</sup> policies and procedures,<sup>136</sup> job descriptions,<sup>137</sup> and attendance requirements.<sup>138</sup>

Administration and funding also vary among MDTs. Although APS usually has a major role in administration of MDTs,<sup>139</sup> oversight is also provided by Area Agencies on Aging, non-profit agencies, state attorney general's offices, universities or agencies that specifically provide elder

131. *Id.* at 95-96. Because there is a paucity of research examining elder abuse MDTs, the authors conducted a national survey to identify key features of teams, explain variations, and identify obstacles in a team approach and how they are being addressed for the purpose of providing a framework for future research. *Id.* at 92-93. In this national survey of elder abuse MDTs, "[t]he two most frequently cited functions were providing expert consultation to service providers and identifying service gaps and systems problems." Also cited were "updates to new team members about services, programs and legislation, advocating for change, training events, and coordinating investigations or care planning." *Id.* at 94.

132. Teaster et al., *supra* note 128, at 96-97. Of the 31 agencies that participated in the survey, three-fourths or 71% review all types of abuse and neglect, and seven teams or 22.6% review financial abuse cases. Financial Abuse Specialist Teams (FASTs) is a model developed in Los Angeles in the early 1990s and has been replicated in other areas with variations. *Id.* at 94, 96.

133. *Id.* at 97-98. Some FASTs include only public agencies while others include representatives from private, for profit, and non-profit agencies. *Id.* at 96.

134. *Id.* at 98, 101. "Just over one-half (51.5%) of teams use case review guidelines to provide direction or suggestions to presenter on what information to include in case presentations and the order in which to present." For MDTs that have guidelines, information for case presenters typically includes "the client's living arrangement, support network, functional status, a description of the abuse and/or other presenting problems, and a history of attempted interventions or services." *Id.* at 101.

135. Teaster et al., *supra* note 128, at 97. A majority of MDTs (74.2%) meet monthly, 9.7% meet every two weeks, 9.7% meet every other month, and 3.2% meet weekly. *Id.*

136. *Id.* at 100-101. Over one-half (51.6%) of the survey participants have members sign a contract or memorandum of understanding (MOU) and 54.8% of MDTs produce summaries of meetings. Of those who do produce summaries, 51.6% disseminate information of case reviews to team members. Some send meeting minutes to non-members as a way to educate how the groups work. A medical team includes case review summaries in clients' medical charts.

137. *Id.* at 101. Over one-fourth (29%) have job descriptions for members. In Wisconsin, job descriptions contain detailed requirements with regard to education, experience, and training. *Id.*

138. *Id.* at 97. One fourth of MDTs require members to attend a minimum number of meetings. "Three teams reported that missing a certain number of meetings is grounds for dismissal." *Id.*

139. Teaster et al., *supra* note 128, at 102. APS programs, alone or in corroboration with other agencies, administered 32.3% of the teams surveyed.

abuse services.<sup>140</sup> With regard to funding, APS most often assists MDTs through the form of in-kind, rather than financial support.<sup>141</sup> Support may also come from Agencies on Aging.<sup>142</sup> The balance is attributed to other miscellaneous sources.<sup>143</sup> Budgets reportedly range from zero to over \$85,000 annually.<sup>144</sup> Hence, there is no typical MDT.

MDTs face many obstacles. The biggest challenge by far is getting the various agencies to “buy-in” and continue to participate in the collaborative method.<sup>145</sup> Many MDTs have an especially hard time getting law enforcement to participate.<sup>146</sup> Other challenges include animosity among members, failure to follow up on cases, and the perception by members that participation is not time well spent.<sup>147</sup> Often these situations occur because of limited understanding of expected roles. Financial concerns also loom over any of these efforts.

### B. Beyond MDTs

Beyond the somewhat fractionated and highly variable MDT concept,

140. *Id.*

141. *Id.* at 102-103. APS provides support to 38.7% of the teams surveyed. In-kind support was given in 92% of cases, and included staff, meeting space, and the printing and mailing of materials. “One fourth of APS programs provides funding ranging from \$70 to \$250.” *Id.*

142. *Id.* at 103. Most support for Area Agencies on Aging is in the form of in-kind support, “with monetary support from elder abuse funds authorized under the Older Americans Act. Dollar amounts ranged from \$3,000 to \$85,122 annually.” *Id.*

143. Teaster et al., *supra* note 128, at 103. Other MDTs (48.4%) receive support from sources that include AARP, a state department of public safety, and a state justice assistance council. Funding ranged from \$500 to \$10,000 annually. Sources of in-kind support included an attorney general’s office, a college of medicine, a county hospital district, a state attorney, a law enforcement agency, and an MEs office. *Id.*; see also George Rooney, *The Elderly Get Help for a 2nd Year: The Program in the 3rd District Wants to Keep Seniors from Being Victims of Fraud*, PRESS-ENTERPRISE, Oct. 1, 1998, at B1 (announcing receipt of \$30,000 federal Community Development Block Grant by APS program, Curtailing Abuses Related to the Elderly).

144. Rooney, *supra* note 143, at B1.

145. Teaster et al., *supra* note 127, at 104. 48.4% of teams indicated that they had difficulty gaining and/or maintaining participation, especially law enforcement (42.9%). Other underrepresented disciplines included medical professionals, clergy, prosecutors, attorneys, financial institutions, pharmacists, state long term care licensing, and county attorney’s offices. *Id.*

146. *Id.*

147. *Id.* at 104-105. The second largest challenge is finding adequate numbers of elder abuse cases to present to the team in their case review sessions. Reportedly, APS workers are too busy to prepare case summaries and there is competition for cases due to multiple MDTs in one community. 16.1% said a challenge was failure of certain groups to present cases, 9.7% reported animosity among team members, 9.7% failure by members to follow through, 12.9% reported confidentiality issues, and 6.7% said participation was not time well spent. *Id.*

wherein agencies work more independently and place secondary focus on elder issues, there exist centers where various agencies have offices under one roof and consistently focus on cases of abuse side-by-side. In the alternative, some centers have case managers who act as point persons that coordinate services for victims with various providers in lieu of having all the agencies under one roof.

Both of these models have a physical presence in a community and provide “walk-in” access for victims to make services easier for victims to access because they can receive several services from one location. This approach has advantages over the relatively haphazard MDT models. Four of these centers are reviewed.

### 1. Elder Abuse Forensic Center, Santa Ana, California

The Elder Abuse Forensic Center utilizes a systems model called Vulnerable Adult Specialist Team (“VAST”).<sup>148</sup> The premise of this model is to use a medical response team that is integrated into an existing case management system for investigating and prosecuting elder abuse cases.<sup>149</sup> This model is unique in that APS and the criminal justice agencies have access to physicians and psychologists trained in geriatrics and cognitive impairments.<sup>150</sup> Medical consultation is essential in many cases to stop abuse by confirming abuse or documenting impaired capacity.<sup>151</sup> VAST can also evaluate victims’ medication and medical conditions, assist in conservatorship cases, encourage victims or their families to pursue legal intervention, and solicit the involvement of law enforcement in certain cases.<sup>152</sup>

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148. ELDER ABUSE FORENSIC CTR., ELDER ABUSE FORENSIC CTR. OVERVIEW, available at [http://www.elderabuseforensiccenter.com/pdf/eafc\\_overview.pdf](http://www.elderabuseforensiccenter.com/pdf/eafc_overview.pdf) (last visited Apr. 11, 2006).

149. *Id.* The first step in developing the VAST model was to create a medical response team, which consisted of two geriatricians, a psychologist, a gerontologist, a social worker, and a project coordinator. The next step was to integrate the team into the existing system, which consisted of social services, law enforcement, and the legal community. The team met weekly at the medical center at University of California, Irvine. When it became apparent that APS generated 89% of the referrals, the meetings were moved to APS headquarters, which eliminated the need for a social worker. The move proved successful because the physical and attitudinal barriers that had prevented helpful interactions between APS and the medical team were eliminated. In the first year of the project, VAST received 98 referrals, which increased to 171 the second year. Laura Mosqueda et al., *Advancing the Field of Elder Mistreatment: A New Model for Integration of Social and Medical Services*, 44 GERONTOLOGIST, 703, 704-05 (2004).

150. Mosqueda, *supra* note 149, at 704-05.

151. *Id.* at 703.

152. *Id.* at 706.

The center is located at the main APS office in Santa Ana<sup>153</sup> and has ten team members.<sup>154</sup> Formal case reviews with team members occur twice each week in a large conference room located at the center and informal meetings occur daily between agencies.<sup>155</sup> The center operates on an \$850,000 grant from Archstone Foundation as well as in-kind support from the County of Orange Social Services Agency.<sup>156</sup>

## 2. Family Justice Center, San Diego, California

The Family Justice Center (“FJC”) focuses upon domestic violence. FJC uses a service delivery model and provides “comprehensive wrap-around services” for victims of domestic violence that occurs within the City of San Diego.<sup>157</sup> FJC joins legal action with supportive health and social services to provide a one-stop-shop for victims of domestic violence.<sup>158</sup> It is a multi-disciplinary, multi-agency center that serves as a national model.<sup>159</sup> The center has expansion plans that include an elder abuse component.<sup>160</sup> Unlike the VAST model, there is no formal case review per

153. ELDER ABUSE FORENSIC CTR., NATION’S FIRST ELDER ABUSE FORENSIC CTR. OPENS IN ORANGE COUNTY, *available at* [http://www.elderabuseforensiccenter.com/pdf/eafc\\_newsrelease\\_2003may12.pdf](http://www.elderabuseforensiccenter.com/pdf/eafc_newsrelease_2003may12.pdf) (last visited Apr. 11, 2006). The Elder Abuse Forensic Center is located at 1505 E. Warner Avenue in Santa Ana, California.

154. *Id.*; *see also* Elder Abuse Forensic Ctr., Participating Agencies, <http://www.elderabuseforensiccenter.com/index.cfm?fuseaction=dsp&page=agencies> (last visited Apr. 11, 2006). The ten team members are APS, geriatricians and other medical professionals from UCI College of Medicine, Geriatrics (VAST), the Sheriff’s Department, the District Attorney’s office, Public Guardian office, Community Service Programs, Long-Term Care Ombudsman, Older Adult Services, Human Options, and Chapman University School of Law. *Id.*

155. ELDER ABUSE FORENSIC CTR. OVERVIEW, *supra* note 148. One of the authors did a site visit to the center and observed a formal case review. *Id.*

156. Jean O. Pasco, *Center to Look Out for Elders*, L.A. TIMES, May 11, 2003, at B1.

157. Cal. Wellness Found., Winter 2004 Grantees in Focus, [http://www.twcf.org/pub\\_portfolio/2004/winter/pages/violence\\_prevention.htm](http://www.twcf.org/pub_portfolio/2004/winter/pages/violence_prevention.htm) (last visited Apr. 11, 2006). A community safety audit found that victims of domestic violence visited as many as twenty different agencies to get the help they needed. Also, “wrap around services” describes a situation where services wrap around the victim, per verbally speaking, without having to go from one location to another. *Id.*

158. *Id.*

159. *Id.* In October 2003, President George W. Bush announced a National Family Justice Center Initiative using the Family Justice Center in San Diego as a demonstration site for the national effort. The federal government will assist in funding twelve new family justice centers across the country. *Id.*

160. *See* Press Release, Office of the Dist. Att’y, County of San Diego, DA Gets \$400,000 Grant to Start Elder Abuse Prevention Services at SD Family Justice Center (Jan. 31, 2006), *available at* <http://www.sdca.org/files/ElderGrantNewsRelease1-31-06.pdf>. *See also* Interview with Robert Keetch, Jr., Operations Manager, Family Justice Ctr., in San Diego, Cal. (June 21, 2005). Approximately five victims of family violence aged sixty-five or older have sought services at FJC between January and June 2005. *Id.*

se. In this service delivery model, victims who come to the center are interviewed<sup>161</sup> and become “intakes” that are directed to various “community partners”<sup>162</sup> to receive appropriate services.<sup>163</sup> Most often, under the current domestic abuse focus, victims seek help with restraining orders.<sup>164</sup>

The FJC occupies four floors of a downtown high-rise building.<sup>165</sup> One floor is occupied by community partners and is the place where victims go for assistance. The domestic abuse and elder abuse divisions of the San Diego Police Department and the City Attorney’s office occupy two floors. The FJC Foundation and FJC administrative staff occupy a fourth floor.

### 3. The Elder Justice Center, 13th Judicial District, Tampa, Florida

The Elder Justice Center (“EJC”) focuses on senior access to the courts and uses a problem-solving model that represents a judicial response to problems older people face when they interact with the courts.<sup>166</sup> The

161. Interview with Kimberly Pearce, Victim Services Dir., Family Justice Ctr., in San Diego, Cal. (June 14, 2005). A large pool of volunteers (approximately seventy) facilitates the intake process. Volunteers must complete a forty-hour training program to learn about various types of domestic abuse, including elder abuse. Volunteers are responsible for completing client intake forms, computer input and updates, maintaining a communication log, conducting follow-up phone calls to victims, and routing intakes to the appropriate service providers. *Id.*

162. *Id.* Community partners are various agencies that are located onsite and provide assistance to victims who come to the center for help. The partners include APS, Camp Hope, the Center for Community Services (this agency provides legal assistance in obtaining restraining orders), Child Protective Services, the Chaplin’s Office, Children’s Hospital, Traveler’s Aid, Home Start, Forensic Medical Unit, Military Family Liaison, San Diego Volunteer Lawyer Program, Union of Pan Asian Communities, City Attorneys DV Unit, President’s Family Justice Center Initiative, San Diego Deaf Mental Health Services, San Diego Police Department DV Unit, San Diego Probation Department, and Victim/Witness Program. *Id.*

163. *Id.* When a victim comes to FJC for services, the receptionist checks to see if there are any outstanding warrants for the person seeking services. If there is no warrant, a FJC volunteer ushers the victim to a comfortable room to gather general information about the victim and her situation. The victim is then routed to Home Start, which does a clinical screening and risk assessment as well as a needs assessment to determine which services are appropriate for the victim. From there, a FJC volunteer routes the victim from one service provider to another. *Id.*

164. Interview with Kristine Rowe, Att’y, Ctr. for Cmty. Servs., in San Diego, Cal. (May 26, 2005).

165. *Id.* The FJC is accessible by automobile, train, bus, and trolley. *Id.*

166. Max Rothman & Burton Dunlop, *Judicial Responses to an Aging America*, 42 COURT REV. 8, 12 (2005), available at <http://aja.ncsc.dni.us/courtrv/cr42-1/CR%2042-1Rothman.pdf>. This article summarized the results of data collected from seven courts across the United States assessing the issue of barriers to effective access to the criminal and civil judicial systems. “Elder Justice Center” represents one model for judicial response to the complex issues presented when elders interact with the courts. *Id.*; see also Interview

general mission of EJC is to remove barriers to the court system and improve coordination between older adults, the court system, and medical, social, and legal services.<sup>167</sup> However, EJC functions as an office of the state judicial system, not as elder advocates.<sup>168</sup>

EJC provides case management for victims of elder abuse in lieu of having on-site partners.<sup>169</sup> It provides referral services and information to elders, and also provides information and background facts to judges about individual cases.<sup>170</sup> When persons aged sixty years or older enter the Hillsborough County Courthouse, they are directed to EJC, which is located on the second floor.<sup>171</sup> EJC responds to needs related to the court, and also provides legally-oriented services to victims of elder abuse and other crimes.<sup>172</sup> In cases of abuse and neglect, EJC staff encourages victims to pursue legal intervention.<sup>173</sup> EJC operates from the premise that establishing a trust relationship between staff and the victim is critical for successful intervention.<sup>174</sup> Another enumerated function of the center is to provide education for residents and professionals of Hillsborough

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with Marcia Larkin, Senior Program Manager, Elder Justice Ctr., in Tampa, Fla. (July 19, 2005). The following is a brief history of EJC: In the 1990s, a task force was created to assess social and legal services in Hillsborough County and the needs of the community and determine the best way to meet those needs. Based on the findings of the assessment, the task force issued a report recommending the creation of a separate elder court for citizens sixty years and older. However, the Florida Supreme Court said no, saying there were already too many specialty courts at that time. However, the needs of the citizens remained. In response to those needs, the court granted the establishment of a court program designed to be a liaison between social services and legal services. Thus, EJC was established in October 1999. *Id.*

167. Rothman, *supra* note 166. See also *Establishing an Elder Justice Center*, FAMILY VIOLENCE FORUM, Spring 2002, at 2, available at [http://www.ncsconline.org/WC/Publications/Res\\_FamVio\\_FVNLVollSpring2002Pub.pdf](http://www.ncsconline.org/WC/Publications/Res_FamVio_FVNLVollSpring2002Pub.pdf). The task force formulated four issues that any court considering such a center should consider: gaps in services in the community; community strengths that facilitate the development of a program; barriers to overcome before the program can be successful and strategies to overcome barriers; and other components such as transportation, escorts and/or volunteers in the courthouse, mobile units, and mediation programs. It is important to note that a critical component of this project involved measuring the impact of the center. *Id.*

168. Interview with Marcia Larkin, *supra* note 166.

169. *Id.*

170. *Id.*

171. *Id.* All persons sixty years and older are directed to EJC, even if they are at court for a traffic ticket, to testify as a witness, or pay a fine. However, due to its funding, EJC is prohibited from providing services for someone sixty or older who is charged with criminal offence. This is not the case at EJC Palm Beach. *Id.*

172. *Id.* EJC assists with paperwork for injunctions, explains legal and social service options, and provides case management. Interview with Marcia Larkin, *supra* note 166.

173. Interview with Marcia Larkin, *supra* note 166.

174. *Id.*



County.<sup>175</sup>

EJC staffing has expanded during its six-year existence. When the center was established in 1999, it began with one staff person and one independent contractor. Today, EJC has a total staff of five and focuses two-thirds of its resources to the Probate Court to assist with establishing accountability in guardianship cases.<sup>176</sup> The center also receives volunteer assistance from students at local universities and law schools.<sup>177</sup>

Funding for EJC has evolved through many stages since its inception.<sup>178</sup> Originally, funds came from Florida's victims' crime grant, county government funds, and the Retirement Research Foundation. Funding at various times was also provided by the Area Agency on Aging and grants from the Florida State Attorney General's Office. Currently, the program is supported almost entirely by Hillsborough County.<sup>179</sup> The total budget for staff and operating expenses is approximately \$200,000 annually.<sup>180</sup>

#### 4. The Elder Justice Center, 15th Judicial District, Palm Beach, Florida

Similar to the Elder Justice Center of the Thirteenth Judicial District in Tampa ("EJC Tampa"), the Elder Justice Center of the Fifteenth Judicial District in Palm Beach ("EJC Palm Beach") uses a problem-solving model. EJC Palm Beach was established in 2001 to improve access to the courts<sup>181</sup> for older people and to remove barriers that might prevent legal intervention by improving coordination between the legal, health, and social services systems.<sup>182</sup> The fundamental goal of EJC Palm Beach is to identify issues that underlie the legal problems that bring seniors to the courthouse and to address them by coordinating appropriate community resources.<sup>183</sup> EJC Palm Beach also functions as a division of the court and makes

175. *Id.*

176. *Id.* Staff includes a full-time director, an administrative assistant, case manager, and two court counselors for guardianship cases. *Id.*

177. *Id.*

178. Interview with Marcia Larkin, *supra* note 166.

179. *Id.* The Hillsborough County Commissioner is a big supporter of EJC. *Id.*

180. FAMILY VIOLENCE FORUM, *supra* note 167.

181. MAX ROTHMAN ET AL., CTR. ON AGING, FLA. INT'L UNIV., CONSULTATION WITH THE FIFTEENTH JUDICIAL CIRCUIT ON THE OPERATIONS OF THE ELDER JUSTICE CENTER (Oct. 3, 2005), available at <http://www.fiu.edu/~coa/downloads/elder%20justice/Quantum%20-%20Elder%20Justice%20Center%2010-03-03%20Report.pdf>. The goal is to improve access to both criminal and civil courts. *Id.*

182. *Id.* This article is a summary of a fifteen-month study of interactions of older adults with the court system in the areas of guardianship, pro se, and criminal. The study profiled collaborative programs in three jurisdictions: Hennepin County, Minnesota; Maricopa County, Arizona; and Palm Beach County, Florida.

183. *Id.*

recommendations to judges about court action that would best promote justice for elderly victims.<sup>184</sup> The center's staff also reviews the criminal docket and provides intervention in cases involving plaintiffs and defendants who are aged seventy years or over.<sup>185</sup> EJC Palm Beach handles a broad spectrum of other legal matters that are referred by the court.

## V. PLANNING SENIOR FOCUSED SYSTEMIC SERVICE PROVISION

The efforts of MDTs and program centers have provided at least some success with respect to the problem of elder abuse. Yet one glaring deficiency is clear: none of them focuses on the needs of the seniors within their own communities. Each of these efforts are clearly reactive in nature, do not provide any coordinated strategy on servicing senior needs, and/or appear designed or result in administrative convenience for service providers rather than for the senior. This latter concern is magnified by the statistics that show even in the context of these programs, few of the elder abuse cases are detected, even fewer are reported, only a fraction of these are investigated, and the paucity that are ultimately prosecuted.<sup>186</sup>

Critically, abuse is not reported, or indeed, prevented, because seniors are isolated and abuse is easily hidden or, the converse side of the same coin, difficult to detect. But elder abuse is only the symptom of a greater social disease. The disease is poor community support of seniors, which precludes their active involvement and participation in those communities. Clearly, the isolation that characterizes senior existence and ignorance of ongoing developments facilitates abuse by family members and others, as well as a sense of helplessness and hopelessness that results in self-neglect.

What is needed is a community where seniors are active, involved, and educated. This environment would ensure that abuse is difficult to perpetrate without widespread knowledge, seniors are made aware of potential threats, and relevant support made available if those seniors do become victims of abuse. Such a system will engage seniors, allow them to monitor their own community's needs and activities, and empower them to fight back against the potential for abuse.

### *A. Preparation: Local Needs Assessment*

Any community-oriented solution must take as its premise a senior-

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184. *Id.*

185. *Id.*

186. Arlene D. Luu & Bryan A. Liang, *Clinical Case Management: A Strategy to Coordinate Detection, Reporting, and Prosecution of Elder Abuse*, 15 CORNELL J. L. & PUB. POL'Y (forthcoming Fall 2005), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=873549](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=873549).

centered model that addresses their important medical, legal, and social service needs, which will then both prevent as well as address actual cases of elder abuse. A well-educated, knowledgeable senior can be effectively resistant to abuse if knowledge in addition to medical, legal, and social service services are easily and regularly available. Furthermore, an abused senior cannot be hidden in an active, open, easily accessible senior community locale that is cognizant of the signs, symptoms, and signals of elder abuse. Moreover, a community of well-educated, well-cared-for, and open senior participants will deter potential abusers because their marks will be that much more difficult to reach – and the community as a whole will be coordinated if efforts are made to attempt to abuse a single member.

However, because of the socio-cultural dynamics of the senior population, each effort must be sensitive to the cultural and social environment of the seniors to be served. What this requires is a needs assessment that focuses upon local seniors and their needs that are also integrated with local legal and social service activities. This must take place in a senior-accessible, single location that allows for a community of activity and care.

Several general areas are germane to adequately plan for an appropriate infrastructure that both acts as a proactive prevention force as well as an effective support system for seniors and those victimized by elder abuse. These general areas, at a minimum, require attention to an array of variables in order to create a community infrastructure responsive to the needs of the specific elderly within that community, which can then translate to effective proactive education and integration as well as assistance for senior victims.

Because all service needs such as health care and social welfare are local, particular senior population factors need investigation. At a minimum, these include:

1. Demographics. The age, gender distribution, race/culture/primary languages spoken, and religious faith.
2. Insurance. This would include investigation of senior coverage by Medicare, Medicaid, both Medicare and Medicaid, Medigap coverage, Supplemental Security Income coverage, private insurance or self-funded care.
3. Support Structure. This would include assessment of family in the local area, family outside the local area, friends and activities in the local area, and community programs available to the senior (such as elder care programs, community centers, regular senior programs, meals-on-wheels, and other similar resources).
4. Socio-medical Needs. This would include an assessment of medication needs, including the difficulty or ease of obtaining medications, needed medical care (both primary care as well as

specialist care), social welfare needs (such as social service agency-related activities), needed/supplied transportation for medical and daily requirements (such as medical care appointments, shopping, transport to community centers and return, etc.).

5. **Physical Status.** This would include ambulatory status and a self-assessment of the ability to perform various activities of daily living (using established scales); additionally, time of day that the senior believes is best for activities, when he/she gets fatigued, and other components of when activities are best suited should be measured here.
6. **Legal Needs.** Legal services for elder abuse situations as well as preventive services (such as review of legal documents or questions about annuities and other potential financial scams) are critical, and specific needs of seniors should be solicited.
7. **Scheduling.** The times seniors are available for educational and other events or services should also be determined so that effective and appropriate scheduling can be done. Note that this may indicate that a senior community facility need not be open during all business hours, depending upon the senior population.

On the basis of this information, initial planning for services and educational activities can be designed that will match the needs of the community elderly. Note, however, that information gleaned from an initial survey is not adequate – a critical recognition is that the needs of the senior population are not static. Hence, recurrent surveys that can reflect the dynamic nature of the senior population can point to fruitful change and/or additions to provide information on avoiding elder abuse as well as addressing the needs of its victims.

Through this process, an understanding of what elder services are required to assist the elderly in maintaining consistent and adequate involvement in their communities is created. Medical, legal, and social service needs are hence identified so that an active partnership model can be designed that place the senior and his/her needs at the center and effectively allow relevant service provision to be provided that can keep the elderly active and involved in their surroundings as well as available for educational activities. This would be a tremendous improvement upon MDT and other efforts that focus more upon what service agencies wish to participate or are available and results in a fractionated, less effective program that is more geared toward bureaucratic boundaries than senior needs.

### *B. Service Providers*

Once senior service needs are established, service provider stakeholders

to fulfill these needs should be sought to provide relevant services in a coordinated manner. Law enforcement, lawyers (through private practices, law school clinics/pro bono activities, legal aid, elder law clinics, etc.), social service agencies (including professional and social work students and schools/clinics), medical care providers (through private practices, hospitals, pharmacies, medical schools, nursing schools, pharmacy schools, and so forth), and clergy should be engaged early so that they understand the senior-centered approach of community as well as establish their presence at a locale for senior services. Stakeholders should be engaged early in the process; such early cooperation will also allow mutually beneficial infrastructural design to be coordinated between members.

Part of this initial stakeholder needs fulfillment design should also include a strong educational effort to indicate the definition of elder abuse, basic questions to ask to elicit potential information about elder abuse, and a single, simple means of reporting suspected abuse. Members of the senior community should participate as educators and learners in this effort. By providing this setting, basic, consistent information is given to all potential detectors and reporters of abuse. This is particularly important for health care providers because of their limited exposure to elder abuse education and their critical role in potentially detecting, reporting, and ultimately prosecuting its incidence. Further, other clinically trained service personnel who travel between sites of care (e.g., visiting nurses; clinical case managers<sup>187</sup>) as well as amenable non-clinically-trained personnel (e.g., meals-on-wheels providers) can also play a critical role in detection and reporting. By providing suitable training for these individuals, detection and reporting, or even requests for clinical investigations at a minimum, can be facilitated to improve assessment and potential prevention and, if necessary, prosecution of abuse. This educational component hence plays a crucial role in developing and improving community support and coordination of elder abuse knowledge, signs, symptoms, reporting, and prosecution.<sup>188</sup>

### *C. Senior and Provider Integration*

Critically, once a conceptual framework and education is formulated by

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187. Arlene D. Luu & Bryan A. Liang, *Case Management: Lessons from Integrated Delivery to Promote Quality Care to the Elderly*, 9(2) J. MED. & L., 257, 257-77 (2005).

188. After the initial planning stage, education about elder abuse should be an important primary activity for seniors who are accessing the senior services. Further, a "peer watchdog" program should be established where seniors regularly ask the same questions eliciting elder abuse to a partner and monitor answers, and, just as importantly, the *demeanor* of answers. A peer watchdog program can hence extend education and detection, and hopefully lead to prevention and, when necessary, prosecution.

seniors and provider service stakeholders, they must meet to engage on a joint buy-in and concrete plan of action. Importantly, such a meeting should focus upon fulfilling each group's needs within the constraints felt by the specific group. Such a meeting can be coordinated by local government, which would utilize the opportunity to promote a more effective and responsive system while showcasing the local medical, legal, and social service commitment to improving community services to the elderly. This may be facilitated by conducting a one or two day conference organized to promote a partnership in problem solving between service providers and senior citizens.

#### *D. Location*

Once senior needs are known and community members and provider service stakeholders are educated and have been engaged, a location that is convenient for the senior should be identified as a locus for the senior community. This too is a local issue and must focus upon existing or prevailing infrastructures.

Of course, costs are an overriding concern, particularly due to the limited support by governments for senior protection efforts. Hence, established senior infrastructures should be sought that are well recognized by seniors, stakeholders, and others to minimize any new fixed costs associated with creating a robust, effective senior community.

Senior community centers are excellent locations to consider for integration of services to seniors. By utilizing this well-known, familiar setting to provide seniors with a regular location to engage with each other as well as with services, lower costs as well as greater use of an existing location can result. Further, these community centers, which are often well known to service providers, can have specific program participants come in on regular bases to provide services (e.g., legal assistance every first and third Tuesdays of the month, pharmacists delivering medication each afternoon at 3 pm). As well, expansion of programs can focus on a single site of service provision.

Established senior centers also have the advantage of often being accessible by public transportation or on public transportation routes. Such public transportation is often at reduced cost and even door-to-door as well.<sup>189</sup> Again, using existing infrastructure can keep costs low while

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189. See, e.g., Goodwater Senior Ctr., Senior Citizens Center and Public Transportation, <http://www.goodwater.org/seniors.html> (last visited Apr. 11, 2006) (publicizing senior center in Goodwater, Alabama, which is located on public transportation routes and accessible by reduced cost transportation); see also West Berkeley Senior Ctr., <http://www.ci.berkeley.ca.us/seniors/WBSC/wbsc.htm> (describing senior center with extended services located on public transportation routes); City and County of Broomfield,

simply expanding use to increase benefits for seniors within the community who may not have been knowledgeable of – or not engaged in – its services before.

Other location possibilities include centering services on an existing service provider, such as a law school legal clinic. Again, regular service providers could rotate through the specific clinic facility with which seniors are familiar or somewhere else close by. In addition, a well-functioning nursing home or assisted living facility may also be a site with potential to create an effective senior community locus. Critically, no matter which specific sites are considered, the most important focus is to have appropriate community services, as defined by the senior survey, available at an easily accessible site. It should be emphasized that any choice of site, or change of site, does not devolve back into a debate on convenience of the service provider. The senior must remain the center of focus for creation of the community where they may be active, use the facility regularly, get needed services, and obtain education so that the community knows what is happening to its members and can get help easily and effectively when necessary.

## VI. CONCLUSION

Elder abuse is legion. Yet our governments and public efforts have failed to protect this population year after year, Congress after Congress. With the graying of America and the limited resources allocated to this phenomenon, it will only get worse if not attended to substantively and soon. Given the limited political will for broad governmental resources in this area, local, focalized approaches must be considered.

Elder abuse is a symptom of the limited engagement seniors have with others in the current society. Abusing the elderly is simple when they are not seen, heard from or paid attention to while family members, others, and, indeed, because of isolation, they themselves create circumstances where abuse occurs. The disease of senior exclusion from our society that is illustrated by elder abuse can only be treated by getting to this root cause. Creating and providing an infrastructure and community that is sensitive to each senior population's social, medical, and legal needs, that engages them within the larger community, and that allows them to obtain education to protect themselves, goes to the heart of the elder abuse problem. In such a

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Broomfield Easy Ride, <http://www.ci.broomfield.co.us/senior/transportation.shtml> (last visited Apr. 11, 2006) (providing transportation for seniors to a wide array of facilities, including the Broomfield Senior Center, for reduced fares); Charles County Government, Aging & Cmty. Ctrs. Div., Charles County Senior Centers, <http://www.charlescounty.org/cs/aging/CtrsMain.htm> (last visited Apr. 13, 2006) (noting that transportation to senior centers in Charles County, Md. is available through the reduced cost carrier, VanGo).

community, the senior population can thrive and serve as its own deterrent to being abused.

It is imperative that we make and take these steps in creating appropriate communities for the senior population now. Ignoring the symptoms of abuse will simply allow the festering presence of those who would perpetrate abuse to grow. Early treatment and prevention are the most substantive tools to ensure that the disease and treated, and treated effectively. Otherwise, we are doomed to enter into a never-ending cycle of ineffective and costly marginal efforts that have only limited effectiveness in addressing elder abuse, while the exponentially increasing incidence and prevalence of elderly exclusion and segregation creates an ever burgeoning opportunity for senior exploitation.