

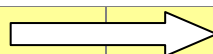
San Francisco Elder Financial Abuse Collaboration: Improving the Response to Financial Elder Abuse A Blueprint For Action

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

Methods:

1. Literature review (legal and clinical) pertaining to elder financial abuse
2. Site visits (Alameda & Contra Costa County Elder Courts; SF Elder Abuse Forensic Center)
3. IRB-approved survey of legal providers
4. IRB-approved survey of seniors
5. Key informant interviews
6. Stakeholder input at State of Affairs Roundtable
 - Held October 28, 2011 at UC Hasting College of Law
 - Attendees (n=27) included representatives from: Administrative Offices of the Court; Bar Association, SF; Borchard Foundation; California Advocates for Nursing Home Reform; CA Elder Justice Workgroup; City Attorney's Office; Dept Aging & Adult Services; Institute on Aging; Legal Assistance for the Elderly; National Association of Elder Law Attorneys; Partnership for Aging Concerns; Private Bar; SFDA; SFPD; SF Superior Court-Probate Division; UC Hastings; UCSF Dept Geriatrics
7. Stakeholder input on blueprint drafts

General Recommendations



Specific Implementation Goals

Promote & Diversify Collaborations:

- Improve collaboration between the public and private sectors (e.g. civil attorneys, the District Attorney, the City Attorney and police).
- Expand existing collaborations to include Domestic Violence partners, faith-based organizations, civil attorneys, and judicial officers.

Connect Victims to Services

- Consolidate and publicize known resources to streamline screening and referral of cases (e.g. one stop shop or resource guide).

Enhance Services Capacity

- Improve access to and navigability of the courts.
- Encourage mentorship and collaboration opportunities for civil attorneys (e.g. for new attorneys and co-counsel for current practitioners wanting to expand).
- Support and expand financial support for existing programs that work with victims of financial abuse, such as the courts, legal aid programs, and the Public Guardian.
- Improve access to mental health resources for victims of financial abuse. Increase awareness and appropriate use of mediation services.
- Enhance legal referral capacity.

Improve Understanding & Awareness of the Problem

- Increase understanding of the problem through enhanced data collection.
- Increase training and awareness of elder financial abuse for legal professionals.
- Increase awareness among medical professionals and encourage screening, charting, and referral.

- Include a member of the civil legal community (private attorney, law faculty, or legal aid attorney) with elder law expertise on the Forensic Team.
- Increase utilization of the Forensic Center by diversifying outreach to DV community, faith-based organizations, civil attorneys & judicial officers.
- Invite court officers to a special session of the Forensic Center to provide education and updates about the courts.
- Develop State Bar list of attorneys who specialize in issues of elder financial abuse and make publicly available.
- Develop a "resource map" for use by community providers in identifying and referring elder abuse cases.
- Develop a "risks and benefits" tool to help providers understand the considerations for victims in different legal courses of action.
- Form exploratory working group on the feasibility of starting an elder court in SF that would handle civil & criminal matters and/or the development of a self-help center.
- Explore option of creating a "mentorship" panel with the Bar Association to link new attorneys with expert attorneys on elder financial abuse cases.
- Develop partnership between the Institute on Aging and DA Victim Services on funding for mental health services to victims.
- Form workgroup to develop framework for appropriate use of mediation (in non-litigation context) to prevent or resolve elder financial abuse cases.
- Pilot an enhanced referral panel that links the Bar Association, civil attorneys, law students and APS.
- Explore feasibility of adding a box on court filing form for claimant to indicate it is an elder abuse case.
- Approach local law faculty about integrating of elder abuse cases and hypotheticals into existing law classes; develop one-hour modules on elder abuse and cohort of local experts willing to teach them as guest speakers.
- Hold trainings for medical professionals on signs of abuse and use of cognitive screening tools.
- Circulate blueprint and article to local bar associations, academic and trade journals, post on websites and disseminate at upcoming conferences.

SAN FRANCISCO RESOURCES: ELDER FINANCIAL ABUSE

Financial or material exploitation is when someone misuses, mishandles or exploits an elderly or dependent adult's property, possessions or financial assets. This includes using those assets without the individual's consent or manipulating the older or dependent adult for the financial benefit or material gain of another.

Under California law, elder abuse can be both criminal and civil.

- Criminal elder abuse occurs where any person who violates any provision of law proscribing theft, embezzlement, forgery, fraud or identity theft knew/should have known the person was an elder or dependent adult (Penal Code 368).
- Civil law (Welfare & Institutions Code Section 15610.07) defines civil elder financial abuse as when a person or entity: Takes, secretes, appropriates, obtains, or retains real or personal property of an elder for a 1.) wrongful use or with intent to defraud, or both; 2.) assists in the above; 3.) or via undue influence

Possible Signs of Financial Abuse

Transaction Abuse Indicators

- Unusual/ implausible banking activity (e.g. unusually large withdrawals, use of ATMs when elder not mobile, surge of activity in static account).
- Signatures on checks do not resemble the elder's; checks to "cash" by caretakers; checks signed by elder but completed by another
- Legal documents signed when the elder is not capable of signing
- Expensive gifts made by the elder to a caretaker
- Checks or credit card transactions to direct mail or telemarketing promotions
- Uncharacteristic investments in time shares, real property, annuities, financial products or donations
- Large loans against equity in real property to finance investments

Possible Legal Document Abuse Indicators

- Power of attorney or will executed when elder lacks capacity
- Elder taking his or her name off of property titles
- The elder adding the name of a caretaker onto real property or money accounts in exchange for commitments of continued care and or affection

Life-Style Change Indicators

- Elder lacks amenities, though they can afford them
- Missing cash, jewelry and personal belongings

Personal Relationship Abuse Indicators

- Reluctance or refusal by "responsible party" to spend money on the elder's care
- Recent acquaintances or long-lost relatives expressing affection for a wealthy elder
- A caretaker has inappropriate interest in elder's finances

Adapted from California Advocates for Nursing Home Reform, What is Financial Elder Abuse?
http://canhr.org/factsheets/abuse_fs/html/fs_financialabuse.htm

Possible Screening Questions For Financial Abuse

1. Who manages your money and property?
2. How do you obtain cash when you need it?
3. Does anyone else have authority to access your bank account? If so, has that person been withdrawing your money?
4. Have you noticed any suspicious or unusual items on your bills (for utilities, credit cards, etc.)?
5. Have you noticed that any funds are missing from your bank accounts?
6. Have you noticed that any checks are missing from your checkbook?
7. Have you noticed that any of your belongings are missing from your home?
8. Has anyone encouraged or forced you to sign any documents that you didn't understand or didn't want to sign?
9. If you have a power of attorney, does your agent do things that you don't want him or her to do?
10. Does your paid caregiver demand that you pay him or her extra for things that are supposed to be provided anyway?
11. Did you want to bring that person with you to this appointment? Did he or she insist on accompanying you? Did that person insist that you come see me?
12. Do you live with anyone? (If appropriate) When did he/she/they move in? Whose name is on the title or lease? Do they pay their share of the mortgage or rent and household expenses?

Note: For use only when appropriate in the context of your professional relationship; terms like 'financial abuse' or 'exploitation' may be distancing, so use the indicators of abuse to develop relevant questions; interview the client alone; let them know that you routinely ask these questions because the problems are so common; consider that non-majority cultural perspectives about finances should inform your approach when relevant.

Adapted from: Stiegel, L. A. (2002). Financial abuse of the elderly: Risk factors, screening techniques, and remedies. Bifocal: Bar Associations in Focus on Aging and the Law, 23(4), 1-2, 6-11.

General Resources for Older Adults:

National Do Not Call Registry: Register for free, online at www.donotcall.gov/ or by phone at 1(888)-382-1222. For teletype, call 1(866)-290-4236. Call from the number you want to register.

FINRA, the Financial Industry Regulatory Authority: Check if person selling investments is a registered broker, www.finra.org/brokercheck or call 800-289-9999.

Free annual credit report: www.annualcreditreport.com (or call Toll-Free 1-877-322-8228) to make one request per year and get all three reports at the same time, free of charge.

Direct Marketing Association: how to remove name from mailing, telemarketing, email lists: www.dmchoice.org

San Francisco-Based Resources

Police & Protective Services

- **Adult Protective Services:** 24/7; take reports of known/suspected abuse; screen reports and may provide urgent response, short-term counseling and linkage to stop abuse; no charge; SF residents 65+ & persons with disabilities 18-64. **(415) 355-6700 or (800) 814-0009**

- **SF Police Department:** call 911 for thefts/incidents in progress; non-emergency reports: **(415) 553-0123**

Legal Assistance:

- **Asian Pacific Islander Legal Outreach:** Elder abuse; wills, trusts, powers of attorney; consumer fraud; conservatorships; protective orders. Free to those on public assistance/low income; also sliding scale. **(415) 626-1033**
- **Bar Association of SF:** After initial phone or online screen, will provide attorney referral; attorney meeting may involve \$35 fee. Phone open: M-F 8:30 am -5:30 pm. **(415) 989-1616**
- **California Advocates for Nursing Home Reform, Lawyer Referral Service:** After screening interview will provide referral. Elder abuse, neglect and financial abuse cases are on a contingency fee basis **(415) 974-5171 or (800) 474-1116**
- **Legal Assistance for the Elderly:** Advice, referrals and/or representation for SF residents 60+ or younger persons with disabilities who are victims of physical or financial abuse; having consumer or debt collection problems; need simple wills. M-F 9am-12pm & 1pm-5pm **(415) 538-3333**

Other Services:

- **Family Service Agency, Economic Security Center for Older Adults:** Economic security casework and service coordination, community forums, national & local advocacy campaigns. Part of a national pilot, in partnership with the National Council on Aging and other community partners. No fee; 55+ **(415) 982-7007**
- **Institute on Aging:** Multidisciplinary case consultation for SF professionals with social services, law enforcement, DA, med/psych professionals. For screening/linkage **(415) 750-4180 x222**

- **San Francisco District Attorney's Office, Victim Services:** Advocacy and support to victims/witness of crime. Financial crimes o.k.; must have police report; free of cost. **(415) 553-9044**

Education & Training Resources for Professionals:

- **Asian Pacific Islander Legal Outreach:** specialty is API outreach **(415) 626-1033**
- **California Advocates for Nursing Home Reform:** particularly predatory lending **(415) 974-5171**
- **Elder Financial Protection Network:** particularly financial institutions **(415) 956-5556**
- **Family Service Agency :** economic security advocacy **(415) 982-7007**
- **Institute on Aging:** mandated reporter in-services **(415) 750-4111**