




Reinforcing California's
Elder Justice Infrastructure:

Committing to Equity and Inclusion



2023 Blueprint
California Elder Justice Coalition

Reinforcing California's Elder Justice Infrastructure: **Committing to Equity and Inclusion**

LEAD AUTHOR

Lisa Nerenberg, Executive Director, California Elder Justice Coalition

CEJC STAFF

Carol Sewell, Policy Director and A*TEAM Coordinator

Christine Damonte, CEJC Coordinator

CEJC STEERING COMMITTEE MEMBERS

Donna Benton, CEJC Steering Committee Chair; Research Associate Professor of Gerontology, USC Leonard Davis School of Gerontology; Director of the USC Family Caregiver Support Center and the Los Angeles Caregiver Resource Center

Leza Coleman, CEJC Steering Committee Vice Chair; Legislative Director, California Commission on Aging

Suzanne Anderson, Specialist and Career Connections Facilitator, Sacramento County Department of Human Assistance; Adjunct Faculty, Department of Gerontology at California State University, Sacramento

Molly Davies, President and CEO, WISE & Healthy Aging

Donata Bohanec, Elder Justice Coordinator for Senior Advocacy Services, Sonoma County

Nicole Howell, Congressional staffer and former Executive Director of Empowered Aging

Jill Nielsen, Deputy Director of Programs, City and County of San Francisco, Department of Aging and Adult Services

James Treggiari, Adult Protective Services Administrator, Department of Social Services and former Executive Director of Legal Assistance for Seniors

Sil Vossler, Founder and Principal, The Vossler Law Firm

A*TEAM MEMBERS

Melissa Brown, JD, Elder Law Clinic Director, McGeorge School of Law

Debbie Deem, FBI Victim Advocate (Retired) and FAST Team Coordinator

Eric Dowdy, Policy Director for the Alzheimer's Association in California

Paul Greenwood, Elder Abuse Unit Prosecutor, San Diego District Attorney's Office (Retired)

Andrea Higgins, Elder Abuse Investigator, San Mateo District Attorney's Office

Angela Rosato, Coordinator, Riverside County Elder Abuse Forensic Center



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Introduction

Reinforcing California's Elder Justice Infrastructure: Committing to Equity and Inclusion is the third in a series of blueprints produced by CEJC. It follows *Improving California's Response to Elder Abuse, Neglect, and Exploitation: A Blueprint* (2011) and *From Blueprint to Benchmarks: Building a Framework for Elder Justice (B2B)* (2016).

The elder justice network has faced daunting challenges since our most recent blueprint *B2B* was released in 2016.

Foremost among these was the COVID-19 pandemic, which took a devastating toll on older Californians and exposed serious shortcomings in California's long-term care, public health, and protective service systems. These weaknesses include long-standing failures to enforce regulations in long-term care facilities, vulnerabilities in the long-term care workforce that impact the health and safety of both workers and those they serve, and deep underlying fissures, vulnerabilities, and inequities in California's public health response system. The pandemic further revealed glaring inequities in access to health care, the quality of care, and health outcomes for elders.

The racial reckoning prompted by the Black Lives Matter movement, outrage over the police killing of George Floyd, and spikes in crime led to calls for reimagining community safety and realigning law enforcement resources and priorities. They also led to reevaluating traditional responses to elder abuse prevention and prompted calls for new approaches that are victim-driven and that address systemic barriers.

The same period has also produced unprecedented new opportunities, including the California Master Plan for Aging (MPA).¹ On June 10, 2019, Governor Newsom issued Executive Order N-14-19, calling for the creation of a blueprint for healthy aging. The MPA, a 10-year plan designed over 18 months with far-ranging stakeholder input and released on January 6, 2021, calls for engagement by state and local governments, the private sector, and philanthropic institutions. It further calls for the use of data-driven approaches to achieve equity, inclusion, and accountability. The final MPA, comprising over 120 implementation steps for the first two years, includes the creation of a state Elder and Disability Abuse Coordinating Council (EDJCC), which was among CEJC’s top priorities in *B2B*, our 2016 blueprint. The California Department of Aging (CDA) was charged with organizing and supporting this council. State representatives were selected and began meeting in 2021, followed by the selection of representatives from advocacy groups and stakeholders. Other initiatives contained in the MPA that pertain to elder justice include:

- **Initiative 94:** Review roles of Licensing, Long Term Care Ombudsman, and Adult Protective Services and the experiences in other states to prevent and address abuse and neglect in long-term care facilities.
- **Initiative 95:** Assess Adult Protective Services’ capacity, age of people served, and services provided, especially for complex cases, given growing and changing needs.
- **Initiative 96:** Assess needs and capacities of local Public Guardians, Public Conservators and Public Administrators, given growing and changing needs.
- **Initiative 97:** Assess needs and capacities of Legal Services for Older Adults, given growing and changing needs.



Organization of Blueprint

Reinforcing California's Elder Justice Infrastructure: Committing to Equity and Inclusion begins with CEJC's top priorities. It is followed by eight sections, each of which describes a component of California's elder justice system or a special area of need. Each section contains background information on the topic, progress achieved since *B2B*, new developments and challenges, recommendations, resources, and promising practices.

Disclaimer

Great minds don't always think alike. Many people from diverse fields and settings have offered their insights and recommendations to this document. These include members of CEJC's Steering Committee, A*TEAM, and subcommittees, and participants in CEJC activities and events. They do not necessarily reflect the positions of the institutions with which contributors are associated or of the Archstone Foundation, whose generous support made the document possible.

With a document of this scope and the complexity of the topics it covers, we anticipate that there may be errors or omissions. We welcome readers to let us know about these as well as updates and new developments.

How to Use this Blueprint

The ideas and recommendations contained in this document are presented in hopes of fostering exchange, problem solving, policy development, heightened awareness, planning, and consensus building by elder justice advocates within and beyond California. We welcome agencies, coalitions, philanthropic organizations, researchers, community groups, policy-makers, advocacy groups, and educators to use it to:

- Generate discussion and planning at public and professional forums.
- Guide their work with abused and vulnerable elders.
- Assist in the design or expansion of programs by identifying unmet needs and justifying funding proposals.
- Craft public policy.
- Set research agendas.
- Develop curricula and course content for schools and training programs.



Please keep us informed of how you use this Blueprint and let us know how we can help. You can reach us at www.elderjusticecal.org/contact-us.html.

Priorities

CEJC's steering committee has prioritized the following 10 far-reaching, high-impact recommendations that align with key objectives of the MPA and CEJC's [Principles of Elder Justice](#) (available on elderjusticecal.org under Learn, CEJC Publications).

- 1.** Provide support and assistance to the Elder and Disability Justice Coordinating Council (EDJCC) to achieve its objectives, respond to ongoing needs and developments, and develop effective strategies. Key activities and actions may include:
 - Promote interdepartmental collaboration to address multidimensional barriers to elder justice.
 - Provide a forum for state agencies, advocacy groups, and stakeholders to share updates on current elder justice activities, future plans, and opportunities.
 - Provide annual updates to the California Legislature.
 - Receive reports from key elder justice task forces, committees, advisory councils, and others on their activities (e.g., the Judicial Council's study on conservatorships and CEJC's A*TEAM).
 - Review key elder justice legislative proposals, new laws, and their implementation.
 - Select themes for annual California Elder and Disability Justice Awareness month and promote collaborative efforts to promote it.
- 2.** Develop a comprehensive public health approach to elder abuse prevention that includes raising awareness about elders' rights and threats to them; screening to identify elders at risk of mistreatment or losing their rights, independence, or security; risk-reduction strategies; interventions to stop abuse; and approaches to reducing harm.
- 3.** Increase equity in access to services that preserve independence, security, and safety by underserved groups, including long-term care facility residents and elders who are BIPOC, have cognitive impairments, or live in rural communities.
- 4.** Reform California's conservatorship system through the following:
 - Educate stakeholders about the benefits and limitations of conservatorship and alternative options.
 - Create a Working Interdisciplinary Network of Guardianship Stakeholder (WINGS) to review California's conservatorship system, recommend reform, and explore less restrictive options.
 - Increase access to conservatorship and alternative options by non-affluent older Californians by providing adequate funding for public guardians (PGs) and other nonprofit conservators.
 - Establish a state liaison to provide guidance and support to local PGs, explore opportunities for innovation and partnerships, and maintain contact with federal and state courts, advocacy groups, policy-makers, and thought leaders.

5. Conduct a review of the state’s mandatory elder and dependent adult abuse reporting and response system. Areas to address include:
 - The need for a “no wrong door” point of entry.
 - Equity in access to APS across the state and within communities and in the scope and quality of services provided.
 - Review cross-reporting processes among the agencies authorized to receive and investigate reports to reduce confusion and delays and eliminate barriers that discourage victims and witnesses from reporting (e.g., the requirement that all cases be cross-reported to law enforcement).
6. Expand and diversify legal assistance for older adults through the following:
 - Fill gaps in legal services, including help for older homeowners and landlords, assistance recovering losses and restitution, and estate planning/advance directives.
 - Develop plans for enlisting private attorneys to represent elders who are victims of elder mistreatment or who have had their rights violated. Plans may include:
 - Strategies for increasing the number of attorneys with expertise in elder abuse and elder rights.
 - Guidance for public and private nonprofit agencies in making referrals to private attorneys and legal panels.
 - The development of partnerships with local bar associations and law schools to meet the need for free or affordable legal assistance.
 - Adopt restorative justice approaches as alternatives or complements to legal remedies.
7. Develop a state Task Force on Nursing Home Reform to review, select, and implement recommendations contained in *The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families and Staff* (nap.edu/26526) in coordination with the Long-Term Care Ombudsman Program (LTCOP), law enforcement officials, regulatory entities, and stakeholders.
8. Promote policy focused research studies to identify disparities in access to elder justice and abuse prevention services, and in the quality of services within and between communities.
9. Ensure that older Californians’ voices are heard in the development of all policies that affect them, including climate change, homelessness, immigration, cybercrime, and behavioral health.
10. Educate policymakers, advocates, and the public about elder rights, including their rights as members of protected classes, long-term care consumers, nursing home residents, and victims of elder crimes and abuse.

CEJC Milestones and Accomplishments Since *B2B*

CEJC has made significant strides in implementing recommendations contained in *From Blueprint to Benchmarks: Building a Framework for Elder Justice (B2B)* and in achieving its mission. They include the following milestones and accomplishments.

The National Elder Justice Advocates Academy

Although CEJC was created to promote elder justice in California, CEJC leaders have long recognized that their work was impacted by developments at the national level. They further realized the benefits of working with partners at the national level and in other states. With support from the Huguette Clark Foundation for Protection of Elders, CEJC launched the National Elder Justice Advocates Academy in 2018 to provide information, technical assistance, and opportunities for professional exchange to advocates across the country. The academy sponsors webinars on leading edge topics, conducts presentations at national professional conferences, and produces “toolkits” and other publications on topics of national interest. Specific accomplishments and resources are listed on CEJC’s website (elderjusticecal.org).

Creation of the National Network of State Elder Justice Coalitions

The first National Elder Justice Advocates Academy (see above) event was a panel showcasing five state elder justice coalitions held at the annual meeting of the American Society on Aging in 2018 and repeated later as a webinar. Following the events, the panelists began meeting to discuss the need for ongoing opportunities for state coalitions to share resources and collaborate to bring shared concerns to the attention of national policy-makers. Toward that end, they launched the National Network of State Elder Justice Coalitions (NNSEJC), which currently has 15 member coalitions. The new network has been invited to participate on the leadership group of the (national) Elder Justice Coalition (EJC) and has been featured at national forums hosted by the U.S. Department of Justice, the American Society on Aging, and the National Adult Protective Services Association. An article about NNSEJC authored by its steering committee appeared in *Generations*², the quarterly journal of the American Society on Aging. NNSEJC is currently working with Lifespan, a NNSEJC member, to launch the National State and Tribal Elder Justice Coalition Training and Technical Assistance Center. The center, which is funded by the Office for Victims of Crime, U.S. Department of Justice (OVC) will provide funding for seven existing or emergent coalitions.

The A*TEAM

B2B called for the development of a statewide team of advocates, policy analysts, experts, and stakeholders to explore systemic barriers to elder justice and craft solutions on an ongoing basis. In 2021, CEJC received a three-year grant from OVC to create the A*TEAM. In early 2022, CEJC hired Carol Sewell as the A*TEAM Coordinator, and the six-member group began meeting later that year. CEJC also organized and began convening a network of elder abuse multidisciplinary teams (MDTs) across the state to identify issues to bring to the A*TEAM. Among the barriers that the group has explored to date are obstacles that local communities face in collaborating with financial institutions. It is anticipated that the A*TEAM will collaborate with the EDJCC to bring this and other concerns to the attention of state agencies and policy-makers.

Partnerships

CEJC has continued to partner with prominent state and national organizations, which has yielded the following notable accomplishments:

- Co-sponsored, with the County Welfare Directors of California (CWDA), legislation and budget requests to extend abuse prevention services, including:
 - [AB 1811](#), enacted in 2018, created Home Safe, a pilot program to prevent homelessness and support housing stability for APS clients.
 - [AB 135](#), enacted in 2021, expanded APS services to individuals aged 60 and older (formerly, persons 65 and older) and dependent adults under age 59. It also provides for long-term case management.
- Partnered with the Senior Medicare Patrol to produce a series of webinars detailing the consequences of Medicare fraud on elder beneficiaries.
- Partnered with the California Commission on Aging to extend victim compensation to victims of financial crimes, abuse, and exploitation. (This objective has not yet been achieved).
- Partnered with CEJC's fiscal sponsor, Community Partners, the Los Angeles' mayor's office, and California State University, Los Angeles (CSULA) on the Community Data Initiative, a project to help nonprofit organizations use data and geospatial mapping to increase their impact. Working with two CSULA economics classes and two student interns, CEJC explored patterns of COVID prevalence in long-term care facilities in low income and racially diverse communities and disparities in access to APS across the state.

Participation in the MPA and the EDJCC

CEJC was among the hundreds of stakeholders participating in the MPA development process. Among its recommendations for the plan was the creation of an Elder Justice Coordinating Council, patterned after the national Elder Justice Coordinating Council, to bring together representatives from key state agencies and stakeholder groups to provide leadership, coordination, and accountability in advancing elder justice. The recommendation, which was among CEJC's top recommendations in *B2B*, was selected for inclusion in the MPA and slated for completion during the first phase of MPA implementation. CEJC's leaders have been actively engaged on the Elder and Disability Justice Coordinating Council (EDJCC) (the council expanded its focus to include non-elderly adults with disabilities). Draft sections of this document were provided to EDJCC members for review and to inform their discussions.

Exploring Restorative Justice

CEJC recognizes that the traditional civil and criminal justice systems often fail to protect elders' rights, safety, health, property, and relationships. In response, CEJC has begun exploring restorative justice approaches that focus on preventing abuse, mitigating and repairing harm, preserving relationships, and fostering community engagement. Restorative justice further strives to ensure fairness, equity, and accountability. Major activities include hosting a four-part webinar series on restorative justice approaches to elder abuse, creating a toolkit, and participating in public forums on the topic.

The projects and activities described above, along with other CEJC accomplishments and activities, are described in greater detail throughout this document as they relate to specific topic areas.



TOPIC I:

Adult Protective Services (APS)

“APS social workers have an obligation to meet with endangered adults and understand their circumstances from their perspectives. Unless they are incapacitated to the extent that they cannot accept or refuse protective services, they have a civil right to self-determination, which we honor. High caseloads and insufficient resources add to the challenges of helping clients leave harmful situations.”

– Akiles Ceron, San Francisco APS Program Director

Background

California’s APS program is a statewide, county-based program administered by the California Department of Social Services (CDSS). APS programs investigate abuse, neglect, self-neglect, and exploitation of people over the age of 60 and adults with disabilities. Local APS programs have cross-reporting relationships with law enforcement, Long-Term Care Ombudsman Programs (LTCOPs), and licensing entities. APS services, which are free, include 24-hour emergency response, time-limited case management, advocacy, counseling, referrals to community services, emergency shelter/in-home protection, “tangible resources” (e.g., meals, help with rent and utilities, and transportation), advocacy to access criminal and civil remedies, and public education and awareness. These services are voluntary, and clients may refuse help and to participate in investigations and assessments. Workers are directed to offer service options that are the least restrictive of clients’ independence. APS staff also participate on multidisciplinary teams (MDTs) with other social welfare agencies, law enforcement, and financial institutions. The extent to which county APS programs carry out these activities varies widely depending on their resources.

State funding for local APS programs is distributed to counties as part of a fund that also supports child welfare programs. Until recently, counties had full discretion in how they used the funds, which placed APS programs at a disadvantage because child welfare programs are held to strict federal and state administrative guidelines and standards while APS programs are not. As a result, counties allocated significantly more to child welfare programs to meet the requirements. In 2022, with the expansion of APS eligibility to include persons between the ages of 60-65, the state allocated \$70 million that were earmarked for APS and could not supplant existing funds. This represented the first dedicated state funding for APS.

APS programs are also recognized in federal law under Title XX of the Social Security Act, which allows states to use federal Social Services Block Grant (SSBG) funds for APS. California does not use SSBG funds for APS, and the state received its first direct federal funding for APS as part of the COVID relief programs described under New Developments, National Level ([page 13](#)).

Although the national APS program was created in 1975, it lacked a federal “home” until 2014 when the Administration for Community Living (ACL) created the Office of Elder Justice and Adult Protective Services. The office oversees the National Adult Maltreatment Reporting System (NAMRS), which collects information about states’ APS programs and data on investigations, clients, and those who cause harm. ACL also produced the *Voluntary Consensus Guidelines for State Adult Protective Services*, which address program administration, training, evaluation, and time frames for investigations and service delivery. These federal initiatives and others are described under Federal APS Developments.

Progress Toward Implementing B2B Recommendations

CEJC has continued to work closely with the County Welfare Directors Association (CWDA), the California Commission on Aging (CCoA), the California Department of Social Services (CDSS), and other partners to modernize and enhance APS in response to needs identified in *B2B* and others. Major areas of focus have been on improving APS coordination at the local, state, and national levels; increasing support for training; addressing disparities in APS services across the state and within communities; and responding to emergent needs.

When CEJC’s first Blueprint, *Improving California’s Response to Elder Abuse, Neglect, and Exploitation: A Blueprint*, was produced in 2011, the state did not have an APS department or leader within CDSS. This led to glaring inconsistencies in practice across the state and impeded coordination and the transfer of knowledge and innovation. It also prevented California from applying for public or private grants for training, technical assistance, or program development. CEJC spearheaded an effort to create a state-level APS Liaison within CDSS, which led to the creation of a position that was filled in 2015. Since then, the APS Liaison has secured federal grants, technical assistance, and other resources that have driven innovation and enhanced service delivery. CDSS recently established an APS unit that will be directed by the APS Liaison and includes five full-time employees.

In 2016, CEJC and CCoA worked with the California Assembly Committee on Aging and Long-Term Care to request a report from the Legislative Analyst’s Office (LAO) to explore the impact of the state’s realignment of key programs and services, a move that shifted administrative and funding responsibilities from the state to county governments.

LAO analyzed APS operations in seven counties, noting significant differences in seven areas:

1. Processes for after-hours and weekend referrals.
2. Use of risk assessment tools.
3. Extent to which they provide “tangible support services”.
4. Participation on multidisciplinary teams and interagency coordination.
5. The use of medical professionals for health-related activities (including those supported by federal Medicaid funds).
6. The extent to which they provide case management.
7. Special initiatives such as community awareness campaigns.

New Developments



State Level

The State Budget Act of 2021-22 extended eligibility for APS services to individuals aged 60 and older (formerly, the age threshold was 65). Younger “dependent” adults (aged 18-59) with a disability are also eligible. The appropriation also included new funds for long-term case management and training. It is unclear whether the change in eligibility will require changes to definitions contained in the state’s mandatory reporting laws or penal code.

As noted above, California’s APS program received direct federal funds for the first time to help clients impacted by the pandemic. To receive funds, the federal government required states to develop three- to five-year plans for building their infrastructures and to describe their visions, missions, principles, and plans. CDSS developed its plan in collaboration with the University of California, San Francisco (UCSF) and the National Adult Protective Services Association (NAPSA).³ The partners conducted listening sessions and focus groups to inform the plan.

CDSS began collecting data on APS clients in 2018 through its participation in the National Adult Maltreatment Reporting System (NAMRS). Under an ACL grant, CDSS collects data on staffing, reporting sources, recidivism, services offered, interagency coordination, referrals to other agencies, and demographic information about victims and abusers. It created a “data dashboard,” which provides county staff and key stakeholders with access to monthly APS statistics from the state’s 58 counties.

Home Safe, a pilot program to prevent homelessness and support housing stability for APS clients, was created by AB 1811 in 2018. The bill was spearheaded by the County Welfare Directors Association (CWDA) and co-sponsored by CEJC. The project originally provided support to 25 counties and was later expanded statewide. Home Safe programs provide housing-related intensive case management, short-term housing-related financial assistance, deep cleaning of unsafe or unhealthy homes, eviction prevention, and mediation with landlords.

State and federal support for training APS social workers and supervisors increased significantly beginning with an initial 2016 investment of \$3 million in state funding over three years, which was matched by \$3 million in federal Title XIX funds. An additional \$5.75 million in state funds was awarded in 2019 and matched by Title XIX funds. The increases were achieved through budget requests spearheaded by CWDA and co-sponsored by CEJC and other partners.

CDSS also received the following federal grants for special projects:

- The APS Leaders Institute provides training by national experts to APS managers and county adult and aging services directors on programmatic challenges and solutions.
 - The APS MSW stipend program began as a pilot project, supporting 10 students enrolled in graduate social work programs at the University of California, Berkeley, and San Jose State University. The program is operated by CalSWEC, a partnership between the schools of social work, public human service agencies, and professional organizations. Students in the program were required to work for two years in county-based APS and aging-focused programs after graduation. The program has been extended statewide with federal funding.
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The following additional initiatives have further enhanced California's APS program:

- CDSS and the Protective Services Operations Committee (PSOC) of CWDA are working together on a plan to bring APS into compliance with the ACL's *Voluntary Consensus Guidelines for APS Programs*.
 - PSOC launched a workgroup to explore how APS data is collected across the state.
 - The Bay Area Social Services Consortium (BASSC), an agency-university-foundation partnership that promotes social service research, training, and policy development, is conducting a workforce survey on APS.
 - CDSS, in partnership with the California Health and Human Services Agency (CHHS), established a central 800 number for reporting elder and dependent adult abuse statewide.
 - CDSS' APS Liaison participates on the Elder and Disability Justice Coordinating Council.
 - The Child and Family Policy Institute of California worked with county APS programs to develop an APS training blueprint/roadmap, which recommends a governance structure to oversee APS training and new training mandates.
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National Level

As noted earlier, the federal government's support for APS increased significantly in recent years, partially in response to the COVID-19 pandemic. In summary:

- Federal COVID-19 relief funds, including the Consolidated Appropriations Act and American Rescue Plan Act, provided the first-ever dedicated federal funding for APS programs.
- COVID relief funds were also used to create the National Adult Protective Services Training Center (NATC) under a two-year, \$1.5 million cooperative agreement with the National Adult Protective Services Association (NAPSA).
- Other Administration for Community Living (ACL) activities related to APS include:
 - Ongoing promotion of the NAMRS data reporting system.
 - Grant programs to improve guardianship and explore approaches to transitioning APS clients to other community-based service programs (called Community Connections).



Challenges and Needs

Despite significant gains, California’s APS program remains fragmented and uneven. The following challenges were identified with input from local APS programs, including representatives from CWDA.



State Level

Lack of consistency across the state remains an ongoing challenge, with APS programs setting different eligibility criteria and providing different levels of service. There are also differences in staffing, training, and communications, which reflect local revenue bases, commitment to public services, and how counties apportion state protective services funds. Examples of variations include the following:

- Some counties investigate all reports of abuse, while others reportedly deny services to older adults with “excess assets” or those who are unwilling to sign criminal complaints.
- Some under-resourced programs triage cases, only providing emergency and short-term services to those in greatest need. This precludes preventative or early interventions that can potentially reduce costs, losses, and harm.
- Disparities in cross-reporting between APS and law enforcement. Under state law, APS programs must refer all reports of abuse (except self-neglect) to law enforcement. In some counties, law enforcement agencies systemically review and respond to the reports, while in others, the reports are simply filed.
- Some small counties lack the capacity to implement innovations or take advantage of federal emergency funds because of workforce shortages or uncertainty about whether they will be able to sustain programs after supplemental funds are depleted.
- Under-resourced programs also lack the capacity to address the needs of underserved groups, including rural seniors, BIPOC, and LGBT elders.

Shortages in community resources that APS can refer clients to in order to meet their ongoing needs. The problem is particularly acute in small communities, and it is anticipated that the shortages will increase with the recent expansion of eligibility for APS for older adults from age 65 to 60. The following are among the most pressing service needs identified by APS personnel:

- Emergency services, including shelters equipped to accommodate older victims.
- Legal assistance.
- Services to stop abuse, neglect, exploitation, and self-neglect.
- Services to mitigate harm caused by abuse and prevent recurrences.
- Behavioral health services and services for those with traumatic brain injuries.
- Housing, including assisted living and residential care facilities for low-income elders and those with serious and chronic mental illnesses.

Lack of coordination between APS and other community service providers, including providers of health care, long-term care, and legal assistance, regional centers, public guardians, courts (including self-help centers), and conservators. Specific examples include:

- Agencies that report abuse are not apprised of the outcomes of referrals and lack information they believe is necessary to ensure clients' safety.
 - There is a lack of coordination among state agencies that oversee key local programs, including the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Developmental Services, and the Department of Aging.
 - California lacks a state-level system that can be used to track abusers who commit abuse in multiple counties and that can coordinate services for clients who move between counties.
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Barriers to access to services, including:

- Service providers lack skills and expertise in how to advocate for clients with special needs including those who are deaf and hard of hearing (DHH) and those with limited English proficiency.
 - The intake process for APS referrals is cumbersome in some communities.
 - As the result of negative experiences with or perceptions about APS and law enforcement, members of some communities lack trust in their services.
 - APS is required to cross-report suspected cases of abuse to law enforcement, which is typically done prior to investigating (additional reports may be made if investigations confirm criminal conduct). Routinely reporting prior to substantiating abuse may be unnecessary, wasteful, confusing, and damaging to APS workers' relationships with their clients.
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Lack of comprehensive statewide training for APS workers. APS programs in some counties do not routinely provide training to new staff, and ongoing training is not required by the state or federal governments. Specific training needs identified by APS personnel include:

- Conservatorship, including alternative options and when and how family members can petition to become conservators.
 - Advocacy services for deaf and hard of hearing [DHH] clients by interpreters and others who are familiar with best practices for meeting these clients' special needs.
 - Restorative justice approaches that reduce the harm of mistreatment on victims, their families, allies, and communities.
 - Person-centered and trauma-informed care approaches.
 - Special training in intake to accommodate newly eligible clients (between aged 60-65).
 - Securing evidence from financial institutions.
-

Underreporting, that is attributable to:

- Lack of information about mandatory reporting duties and procedures for making reports.
 - Misperceptions or negative perceptions about what will happen when reports are made.
 - Fear of retribution or negative consequences for victims or those reporting abuse.
-

Lack of accountability. Unlike other federally funded human service programs (e.g., IHSS), there are no performance standards for APS programs.

Challenges specific to the Home Safe homelessness prevention programs include⁴:

- Underutilization. According to program administrators, Blacks comprise approximately 40% of the homeless population but only 11% of Home Safe clients.
 - Some individuals who could benefit from Home Safe services are not eligible because they do not meet APS eligibility criteria.
 - Critical shortages exist in affordable housing and short-term rental subsidies.
 - A commonly used tool to assess the risk of homelessness (called PR-VI-SPDAT) does not appear to be effective with Home Safe clients.
 - Home Safe clients who do not have permanent addresses during transitions cannot access their Social Security or other benefit checks.
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Imprecise and stigmatizing language contained in California’s statutes for reporting elder and dependent adult abuse and eligibility for APS, including the terms “self-neglect” and “dependent adults”.



National Level

Little is known about the effectiveness, efficiency, and fairness of APS services across the US. Specific informational needs include:

- The outcomes, costs, and alternative costs (how funds could be used for alternative approaches) of APS and mandatory reporting.
 - Comparisons of state laws to reveal the impact of various approaches to APS and abuse reporting systems, including difference in the scope of services provided, eligibility for services, substantiation rates, utilization rates (including by underserved groups), and the impact of voluntary as opposed to mandatory reporting.
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No model statutes exist for elder abuse reporting and APS services that can be used by states to ensure that their laws and APS programs offer adequate protections for elders’ rights, including the right to due process and privacy.

Recommendations



State Level

Reduce disparities in access to APS services, staffing, outreach, and training by:

- Developing quality measures, matrices, and benchmarks for tracking and assessing APS programs' capacity based on the Voluntary Consensus Guidelines and state regulations. Measures should include staffing, services provided, training, casework standards, and service levels.
 - Creating incentives for APS programs to comply with the Voluntary Consensus Guidelines.
 - Providing information and guidance to counties to help them make decisions about how to apportion Protective Services Sub-account funds that reflect demographic trends and the needs of the populations they serve.
-

Review and clarify APS' role and responsibilities under the state's mandatory elder and dependent adult abuse reporting laws and those of other entities charged to investigate and respond to reports, including law enforcement, LTCOP, licensing agencies, and agencies making reports.

Improve accessibility to APS services through the following:

- Expand the diversity of the APS workforce to reflect the populations served, including BIPOC, rural, bilingual/bicultural, LGBTQ+ adults, and adults with disabilities by providing incentives for professionals to work in underserved communities and with underserved groups (e.g., stipends or loan forgiveness programs).
 - Expand APS programs' capacity to offer appropriate language assistance services.
 - Conduct public awareness campaigns that explain APS (including confidentiality policies and programs' ability to accommodate special needs) and counter misperceptions, including fears that APS will remove clients from their homes.
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Create a "no-wrong door" approach to abuse reporting and response. Potential avenues to explore include collaboration with the Friendship Line or other state referral programs.

Expand the supply and range of services available to APS clients, particularly in small, rural, and other underserved communities. Critical service needs include:

- Shelters that can accommodate older adults' needs, including wraparound services that are culturally and trauma informed.
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- Victim advocates and peer support leaders for adults with disabilities to help APS workers with interviews and investigations in sexual assault cases.
- Ongoing funding for Home Safe and support for other homelessness prevention and rehousing services for elders.
- Provide help to clients who do not want law enforcement to be involved.
- Improve collaboration, coordination, and communication among APS and other community agencies, including Regional Centers, behavioral health programs, health care providers, and others through the development of protocols and/or memoranda of understanding that provide for:
 - Information-sharing and confidentiality.
 - Intake and referral processes that make transitions more seamless.
 - Protocols for conducting collaborative mental health (LPS) assessments and hospitalizations.
- Explore case management software programs for sharing information, monitoring clients, tracking offenders, and coordinating services.

Promote innovations in APS through the development, evaluation, and dissemination of promising practices, and provide technical assistance to replicate them.

Develop and mandate comprehensive training for new APS workers and ongoing training, including:

- The role of aging services network programs in reducing the risk of abuse, early identification, and harm reduction.
- DHH culture, accommodations, advocacy strategies, and challenges.
- The needs of adults with chronic mental illnesses and resources available to them.
- Restorative justice approaches to preventing abuse and mitigating harm.
- Person-centered and trauma-informed approaches to care.
- Accommodating newly eligible (adults aged 60-65) clients.
- Conservatorship, including APS' role in advising clients' families and allies about court administered self-help programs and alternatives to conservatorship (e.g., supported decision-making and daily money management).
- Cultural competence and cultural humility.

Develop a quality assurance system at CDSS to ensure program performance standards are met by county-based APS programs.

Review and revise the language used in California's statutes to eliminate terms that are imprecise and stigmatizing.



National Level

- Support research to determine the effectiveness, efficiency, and fairness of APS systems.
- Develop model abuse reporting laws that include provisions for APS responses and protections for clients' rights.
- Identify and disseminate information about promising practices, including approaches to outreach that have been shown to increase reporting and provide support for their replication.
- Develop self-assessment tools for states to use in evaluating their processes, including their protections for clients' rights and methods for ensuring equity and inclusion.
- Provide sustained funds for APS and guidelines for their use.
- Explore ways that NAMRS can be applied or adapted to identify underserved communities and document disparities.
- Provide guidance to states in how to access federal resources for APS through Social Services Block Grant (SSBG) and Medicaid funding.

RESOURCES

For the most up-to-date contact information and reference links to these as well as additional resources, please visit our [Blueprint Resources](http://www.elderjusticecal.org/2023-blueprint-resources.html) page on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- [Adult Protective Services Reporting Laws](#) (April 2022) – Chart produced by the American Bar Association of key features of states' elder abuse reporting laws.
- [Adult Protective Services Workforce Innovations \(APSWI\)](#) – Training by the Academy for Professional Excellence of the San Diego State University School of Social Work.
- [APS-TRIO \(Tool for Risk, Interventions, and Outcomes\)](#) – Framework for ensuring consistency in APS practice and improving outcomes.
- [California Undue Influence Screening Tool \(CUIST\)](#) – Tool designed to help APS identify and document undue influence.
- [National Adult Protective Services Association \(NAPSA\)](#) – Advocates for APS, provides a forum for exchange among APS providers and partners, and convenes groups that focus on research, scams, and financial abuse.
 - [National Guidelines for Financial Institutions: Working Together to Protect Older Persons from Financial Abuse \(NAPSA\)](#)
 - [Resources on Evidence-Based and Evidence-Informed Practice in APS \(NAPSA\)](#)

- [National Adult Protective Services Technical Assistance Resource Center \(APS TARC\)](#)
- [National Center on Elder Abuse \(NCEA\)](#) – One of 27 Administration on Aging-funded Resource Centers, NCEA provides information regarding research, training, best practices, news, and resources on elder abuse, neglect, and exploitation to professionals and the public.
- [Opening the Door \(OTD\) Training](#) – Eight-hour training on engagement skills for APS.
- [Supporting Adult Protective Services](#) – Webpage of APS resources produced by the Office of Elder Justice & Adult Protective Services, Administration for Community Living.

PROMISING PRACTICES

For the most up-to-date reference links to these practices, please visit our [Blueprint Resources](http://www.elderjusticecal.org/2023-blueprint-resources.html) page on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- [The Center of Excellence on Elder Abuse and Neglect](#) – The Center of Excellence on Elder Abuse and Neglect at the University of California, Irvine is partnering with Orange County’s APS and Public Guardian (PG) programs to implement Ending and Disrupting Elder Abuse Recidivism (ENDEAR) for Person-Centered APS – Community Transitions.
- [Identification, Services, and Outcomes \(ISO\) Matrix for APS](#) – Developed in partnership with CWDA’s PSOC Consistency Workgroup and pilot tested in San Francisco and Napa counties, ISO was designed to capture outcomes of APS interventions.
- [Ohio Adult Protective Services Research Project](#) – Assessment of Ohio’s Adult Protective Services system for the Ohio Department of Job and Family Services.
- [The “RISE model”](#) – Developed by the Elder Abuse Institute of Maine in partnership with elder justice experts, the “RISE model” provides advocacy services to APS clients using restorative justice and other alternative methods.

TOPIC II:

Ensuring Justice for Residents of Long-Term Care Facilities

“The lack of affordable long-term care options for older Californians results in more families, out of desperation, using unlicensed and unregulated care, which exposes vulnerable adults to abuse, neglect, and fraud with little to no recourse. By 2030, over one million Californians over 65 will need daily assistance with activities of daily living. The state will face a real crisis if we fail to prepare.”

– Leza Coleman, CEJC Vice Chair, and Legislative Director of the California Commission on Aging

Background

The primary forms of long-term care (LTC) facilities in California are nursing homes and residential care facilities. Nursing homes, which are also called skilled nursing facilities (SNFs), serve people who need medical care and supervision. Residential care facilities for the elderly (RCFEs), which are also called “assisted living facilities” and “board and care homes,” provide housing, meals, and personal care. They range from facilities that are owned and operated by large national corporations to facilities run by independent operators who open their homes to offer rooms, meals, and basic care and assistance to individuals. SNFs are licensed and regulated while some RCFEs in the state are licensed and others are not.⁵

Residents of LTC facilities have rights and protections under both federal and state law. These include the right to have visitors, to privacy, and to be protected against verbal, sexual, physical, and mental abuse. Residents’ ability to exercise and defend their rights may be limited by physical or cognitive impairments, which underscores the importance of robust protective, regulatory, oversight, and enforcement systems. Most care provided in LTC facilities is paid for by the state and federal governments through the Medicare and Medicaid (called Medi-Cal in California) programs.

The responsibility for overseeing resident care and licensing and overseeing facilities is shared by multiple entities including:

- The Department of Public Health’s Licensing and Certification Division (CDPH) conducts annual surveys of SNFs that provide care to Medicare and Medi-Cal beneficiaries to ensure that they meet minimum quality and performance standards. CDPH also conducts complaint investigations and can issue citations for deficiencies, require plans of correction, and impose monetary penalties.

- The Community Care Licensing Division (CCL) of the California Department of Social Services inspects and licenses RCFEs, investigates reports of problems, and works with facilities to correct substantiated claims. CCL can fine facilities for failure to comply or terminate their licenses.
- The federal Centers for Medicare & Medicaid Services (CMS) can deny payment to facilities for failure to correct problems, decertify facilities so they can no longer serve beneficiaries, and install temporary managers.
- The Long-Term Care Ombudsman Program (LTCOP), which is authorized under the Older Americans Act (OAA) and funded through a combination of federal, state, local, and special funds, is charged to identify, investigate, and resolve complaints made by or on behalf of residents. California has 35 LTCOPs across the state. Their staff and volunteers (who comprise nearly 80% of LTCOP representatives) make routine and unannounced visits to facilities; provide information and consultation on residents' rights to staff, residents, families, and the public; and maintain information about facilities. LTCOP representatives also witness the signing of advance health care directives (AHCD) and certain property transfers for residents to ensure that they are entered into freely and without undue influence.

In addition to their OAA responsibilities, LTCOP representatives in California investigate and respond to reports of elder abuse, neglect, and exploitation in facilities (and in some adult day care programs) under California's elder and dependent adult abuse reporting law. California is one of just a few states in which LTCOP have this responsibility. Under state law, when abuse is substantiated, LTCOP representatives may:

- Work with facilities to improve care, which may include firing, suspending, or disciplining abusive employees; providing training; changing residents' rooms to prevent abuse between residents; and increasing staff supervision.
- Find alternative placements for residents when facilities cannot meet their needs.
- Advise residents and their families about recourse, which includes civil and criminal remedies and making reports to regulatory agencies.
- Make reports to state licensing agencies (see above).

The responsibility for investigating crimes by and within facilities is shared by local, state, and federal law enforcement agencies. Local law enforcement agencies have responsibility for investigating most state crimes in facilities. The California Attorney General's Division of Medi-Cal Fraud & Elder Abuse (DMFEA), which was previously called the Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA), investigates and prosecutes health care providers who defraud the Medi-Cal program and neglect or abuse Medi-Cal beneficiaries. DMFEA's fraud investigations stem from allegations that a facility is billing the government for services not rendered or care that is grossly substandard. The Division's abuse and neglect investigations usually involve allegations of abuse or neglect against SNF or RCFE residents, which can result in criminal charges or be handled civilly as unfair business practices.

For many years, DMFEA ran the Operation Guardians program, a multi-agency task force that included regulatory and law enforcement officials who conducted surprise, on-site inspections of California SNFs. In 2021, in response to the pandemic, the DMFEA launched Operation SAFE (Stop Abuse and Fraud of the Elderly) to address COVID-related complaints in SNFs. When Operation SAFE receives complaints alleging potential criminal conduct, a multidisciplinary team composed of medical professionals, special agents, investigative auditors, and legal staff, makes unannounced visits to facilities to investigate. When COVID complaints began to decrease, Operation SAFE began responding to complaints of abuse, neglect, theft, fraud, and quality of care in facilities, eventually replacing Operation Guardian.

The U.S. Justice Department (DOJ) may also get involved in abuse cases. Its civil divisions may pursue SNFs for fraud or false representation through the mail or online. It also prosecutes federal crimes.

The COVID epidemic had a devastating toll on nursing home residents. In addition to the high death rates in facilities,⁶ residents experienced heightened rates of depression, weight loss, and functional decline. Many lacked personal protection and were denied the right to have visitors. The situation was worse for residents of nursing homes with disproportionately more racial/ethnic minority residents. According to national studies, these facilities had higher than average confirmed cases and deaths.⁷ In addition to exposing a lack of accountability and oversight at the time, the pandemic spotlighted long-standing and pervasive violations of staffing and infection control regulations and stark disparities in the quality of care provided by facilities across the state and within communities.



Progress Toward Implementing *B2B* Recommendations

CEJC has taken the following steps to improve the care of LTC facility residents and achieve greater equity in care across the state:

- As part of the Community Data Initiative, CEJC collaborated with Community Partners, the Los Angeles’ mayor’s office, and California State University, Los Angeles (CSULA) to explore patterns of COVID prevalence in LTC facilities in low-income and racially diverse communities using geospatial mapping. Working with CSULA classes and interns, CEJC explored relationships between COVID rates, facilities’ past performance (as measured in complaints to LTCOPs), and the impact of visitation policies on abuse reporting.
- CEJC alerted the governor, legislators, and other policy-makers to longstanding practices and deficiencies that exacerbated the consequences of COVID and recommended responses. The following issues were highlighted:
 - Because many facilities fail to pay employees a living wage or provide overtime pay, many work at multiple jobs, which contributed to COVID’s spread. CEJC called on policy-makers to mandate or incentivize facilities to provide hazard and overtime pay to workers.
 - CEJC alerted advocates to rollbacks in staffing and infection control regulations that also heightened the impact of the pandemic and called for regulations to be reinstated and strengthened.
 - Because COVID inflicted a disproportionate burden on BIPOC residents, CEJC called on policy-makers to address the conditions and vulnerabilities that heightened these residents’ risk in COVID recovery plans.

New Developments



State Level

LTCOPs across the state were severely impacted by COVID. Statewide, the number of LTCOP volunteers fell from 1500 to 200. LTCOP representatives were unable to make visits, investigate most abuse reports, or witness the signing of advance health care directives (AHCD).

The pandemic revealed and exacerbated long-standing and pervasive failures in regulatory and oversight processes, including:

- Failures to enforce infection control measures.

- Inadequate safety protections for workers.
 - Lack of transparency and accountability in reporting problems and residents' complaints.
 - Failure to meet recommended minimum standards for staffing.
-

In 2021, California passed five nursing home reform bills, known as the PROTECT Plan (Prioritize Responsible Ownership, Treatment, Equity and Corporate Transparency), including:

- [SB 650](#) (Stern), the Corporate Transparency in Elder Care Act, requires nursing homes to submit annual financial reports so the public can see how their money is used.
 - [AB 849](#) (Reyes) restored nursing home liability of up to \$500 for each violation of a resident's rights, undoing a California Supreme Court decision that capped liability.
 - [AB 323](#) (Kalra) increased nursing home citation penalties.
 - [AB 1042](#) (Jones Sawyer) established shared liability for entities that share ownership or control of nursing homes when specified penalties or fees are unpaid.
 - [AB 749](#) (Nazarian) requires nursing home medical directors to be certified by the American Board of Post-Acute and Long-Term Care Medicine within five years of hire.
-

In 2021, the state created the Office of the Patient Representative. Patient representatives will participate on Inter-Disciplinary Teams (IDT) to represent SNF residents in discussions regarding their treatment and care. IDT meetings are convened by facilities when “unrepresented” or “unbefriended” patients (those who lack decision-making capacity, have not executed AHCDs, and do not have surrogates) require treatments that require patient consent.

AB 172 (2021-22 Budget) established the Community Care Expansion Program to finance RCFE beds for Supplemental Security Income/State Supplementary Payment (SSI/SSP) recipients.

As noted earlier, BMFEA was elevated to division status as the Division of Medi-Cal Fraud and Elder Abuse (DMFEA) within the attorney general's office.

National Level

National efforts to improve the care of long-term care residents advanced and waned in the years preceding COVID-19. Under the Obama administration, CMS enacted multiple reforms, which included preventing homes from requiring residents to sign mandatory arbitration agreements at admission, depriving them of the right to seek legal recourse for inadequate care or abuse. This and other measures were postponed or reversed by the subsequent administration, which also lowered penalties for deficiencies by imposing one-time-only fines instead of charging facilities for each day they were out of compliance.

During the pandemic, CMS waived standard and complaint surveys and prohibited LTCOP representatives and families from visiting residents.

Some multi-state nursing home chains received federal and state money during the pandemic despite histories of poor care or pending legal actions against them for defrauding the government.

LTCOP received federal funding through the Consolidated Appropriations Act of 2021 to investigate and resolve abuse and neglect complaints.

In 2022, the Biden administration rolled out a comprehensive agenda for improving nursing home care, which includes the following provisions ⁸:

- Establish minimum nursing home staffing requirements.
 - Reduce resident room overcrowding.
 - Reinforce safeguards against unnecessary medications and treatments.
 - Adequately fund inspection activities.
 - Expand financial penalties and other enforcement actions.
 - Increase public transparency of corporate ownership of facilities.
 - Reinstate prohibitions against the use of mandatory arbitration agreements in resident contracts and nullify those already in place.
 - Examine the role of private equity in the nursing home sector.
 - Support state efforts to improve staff training and workforce sustainability.
 - Ensure long-term care pandemic and emergency preparedness.
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In April, 2022, the National Academy of Sciences, Engineering and Medicine's Committee on the Quality of Care in Nursing Homes released [**The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families and Staff**](#), a blueprint for nursing home reform.

DOJ has reported that it is bringing more criminal charges, including criminal embezzlement, health-care fraud, and wire fraud against facilities that receive Medicare and Medicaid funding.

In 2022, CMS began a study to set threshold staffing levels for RNs, LPNs/LVNs, and CNAs needed for safe quality care that will be used to guide minimum staffing regulations.

The trend toward for-profit SNFs has continued, with research showing that for-profit facilities offer poorer quality care, mostly attributable to lower levels of staffing, than nonprofit and government-run facilities.⁹

Challenges and Needs

Lack of meaningful penalties for facilities with chronically poor safety records. Between 2016 and 2020, the state downgraded and reduced fines in 14 of 45 citations involving the death of residents after nursing homes sued. In some cases, citations that carry fines of up to \$100,000 were reduced to \$20,000.¹⁰

Staff turnover, which is associated with the quality of residents' care, is high in California. This includes an approximate turnover rate of 50% for registered and other nurses.¹¹

There is a lack of clarity about the roles of the various law enforcement and regulatory entities involved in addressing abuse in facilities.

Abuse in facilities is rarely investigated by law enforcement or prosecuted. Cases that are responded to by law enforcement often involve abuse committed by line staff as opposed to operators (which could potentially have greater impact). Obstacles to pursuing crimes in or by nursing homes that have been reported include:

- Lack of training for police in investigating criminal complaints of abuse in facilities and for crime victim advocates. Specific training needs include:
 - Understanding the roles and responsibilities of the various investigatory, enforcement, and regulatory agencies involved in abuse in facilities.
 - Criminal laws pertaining to abuse in facilities and how to investigate them.
 - Working with victims with dementias.
 - Investigating criminal neglect and sexual assault.
 - Lack of training for LTCOP representatives to help them understand:
 - The various law enforcement entities involved in resident abuse, the types of abuse they handle, and how to make reports.
 - Criminal laws pertaining to abuse in facilities.
 - When victims of neglect die in hospitals, their deaths are not likely to be referred to coroners for investigations or autopsies that could reveal abuse (coroner investigations are typically only requested for unattended deaths). Some coroners are unwilling to investigate these cases.
-

LTC facilities are receiving increasing numbers of residents with special needs, including people with mental illnesses, those experiencing homelessness, and people who were formerly incarcerated.

Poorer quality of care has been documented in long-term care facilities that serve BIPOC and low-income residents.

Failure of residents, staff, and residents' families to report abuse, which some attribute to lack of adequate whistleblower protections.

Little is known about the number, scope, or outcomes of lawsuits or criminal prosecutions against nursing LTC facilities.

Critical shortages in affordable SNFs, RCFEs, and other “post-acute care” facilities (including rehabilitation facilities and home care), have reportedly led to abusive or inappropriate hospital discharge practices, such as releasing patients to homeless shelters or medicating them with antipsychotic medicines prior to release so they meet the SNF requirement that new residents must be stable for 24-48 hours prior to admission.

Lack of coordination in sharing resident information across the health and social services systems (it is not yet clear whether LTCOP data will be included in the Data Exchange Framework authorized under [AB 133](#)).

Federal regulations require nursing home staff to ask residents four times a year (or when significant changes in condition occur) if they want to speak to someone about leaving the facility as part of the comprehensive “Minimum Data Set” (MDS) assessment. This is not routinely done, with some reporting that the practice is futile when less restrictive options are not available.

Rapid growth of for-profit RCFEs and lack of regulation. The federal government does not regulate or provide oversight of RCFEs, and the following violations of state law are common:

- Facilities that are required to be licensed are not.
 - A growing number of unregulated “placement agencies” have emerged to assist LTC consumers, including families and agencies, locate LTC facilities. Although California law makes it a misdemeanor to place people in unlicensed facilities, many agencies are unaware of the provisions and the law is rarely enforced. Advocates report that placement agencies are placing consumers in facilities with the highest commissions instead of facilities that are the most suitable for their needs.
 - Facilities admit residents who require higher levels of care than they are licensed to provide.
 - Licensed operators may also operate unlicensed facilities, which may complicate enforcement efforts.
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Fire department personnel and other emergency responders lack training in how to identify and report abuse in facilities.

Doctors are not held accountable by the California Medical Board or other entities for failures to provide required medical treatment.

Potentially harmful psychotropic medications are inappropriately administered for the convenience of staff or as punishment.

California lacks an effective system for tracking LTC facilities that perform poorly or have abused or mistreated residents or violated their rights.

Many LTC facility employees work in challenging and unsafe working conditions (e.g., working with residents who are violent, aggressive, or who have other behavioral problems), for low pay and with inadequate training and untenable workloads.

Few facilities offer adequate training to workers, and little is known about the impact of training programs on improving residents' care.



Recommendations



State Level

Launch a comprehensive “all-of-government” approach to improving the care of LTC facility residents and working conditions for staff. The potential roles for key entities include:

- California Department of Public Health (CDPH)
 - Establish and enforce minimum staffing requirements recommended by experts.
 - Discontinue issuing staffing waivers.
 - Monitor staff turnover rates in facilities.
 - Issue fines and install temporary managers when necessary to ensure adequate staffing.
 - Track disparities in performance of LTC facilities.
- California Department of Aging (CDA)
 - Establish training requirements for LTCOP staff and volunteers in the following:
 - Victim advocacy, including victims’ rights to information, compensation, restitution and to have their voices heard in court proceedings.
 - Sexual assault, including arranging for rape kits to be offered to survivors.
 - Provide guidance to LTCOP representatives in making referrals to private attorneys and legal aid panels, sharing information with them, and avoiding conflicts of interest.
 - Reevaluate the role of LTCOPs in relation to other entities that investigate and respond to elder and dependent abuse under state reporting statutes.
 - Include LTCOP data in the Data Exchange Framework.
- California Department of Justice (DOJ)
 - Allow LTCOP representatives to participate in Operation SAFE investigations to advocate on residents’ behalf.
 - Exercise greater transparency about investigations (e.g., issue press releases on successful cases to serve as a deterrent).
 - Develop state and local MOUs and protocols among LTCOP, victim advocates, and law enforcement for investigating crimes in facilities to ensure that victims’ rights are respected and that investigators have access to critical information.
 - Provide cross-training to institutionalize practices defined in the MOUs.
- California Office of Emergency Services (CAL OES)
 - Provide training to victim advocates in how to work with crime victims in facilities, the role of family councils, the chains of command within facilities, standards of practice, and resources.
 - Encourage or incentivize victim advocates to participate on multidisciplinary elder abuse teams to foster coordination and collaboration.

- Increase the supply of nonprofit, government-operated rehabilitation facilities, RCFs, SNFs, and home health agencies, particularly in underserved parts of the state and neighborhoods.
 - Encourage local bar associations to provide training to private attorneys in addressing abuse and neglect in facilities. The training should include how to work with private, nonprofit agencies.
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Track disparities in performance of LTC facilities across the state and within communities to identify patterns and variations between urban and rural areas, affluent and non-affluent communities, and facilities serving higher than average numbers of BIPOC residents.

Review California's mandatory reporting laws and response system for abuse in facilities to ensure maximum protection for residents, that residents' rights are respected, and that California adheres to federal law. Reviews should be crafted to:

- Ensure that all reports of abuse in facilities are reviewed for criminal conduct, regulatory violations, and infractions of residents' rights.
 - Ensure that all agencies involved in investigations and advocacy on behalf of victims have adequate funding and training.
 - Determine if LTCOP representatives have the authority, resources, training, and access they need to:
 - Meet their reporting duties under state law.
 - Meet their OAA duties to investigate complaints and ensure residents' rights.
 - Ensure the rights of crime victims in facilities (e.g., the right to information about their cases, to receive compensation, restitution, shelter, and counseling, and to be heard by courts) or bring in others who can address their rights.
 - Ensure that LTCOP representatives have the access, resources, and training they need to effectively advocate for stronger state and federal laws and regulations to protect residents.
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Improve the enforcement of state and federal laws and regulations that protect LTC residents.

This includes:

- Ensuring that crimes against residents are reported and investigated, regardless of whether victims are able or willing to give consent.
 - Denying the payment of public funds to facilities that cause avoidable harm or death to residents.
 - Imposing and enforcing penalties on doctors who are paid by Medicare and Medi-Cal and who provide inadequate care to LTCOP residents.
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Promote the development of forensics expertise specific to facilities. Examples include:

- Support the development of forensics centers for LTC facilities or encourage existing forensics centers to review cases of abuse in facilities.
 - Call for DMFEA investigators to participate in forensic center team meetings.
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Provide training to all entities that report and investigate abuse in LTC facilities or advocate for residents, including law enforcement, medical directors, fire and emergency first responders, LTCOP representatives, LTSS providers, allied health professionals, civil litigators, medical examiners, victim advocates, regulatory agencies, and facilities' personnel to achieve a common understanding of the following:

- The roles and responsibilities of the various investigatory, enforcement, and regulatory agencies involved in abuse in facilities.
 - Residents' rights and victims' rights.
 - Working with victims with dementias.
 - Establishing rapport and trust with residents.
 - Evaluating residents' medical and cognitive status and markers of abuse.
 - How to recognize when abuse constitutes criminal or civil wrongdoing. This includes criminal neglect, sexual assault by staff, guests, or residents, Medicare/Medi-Cal fraud, and financial abuse of residents.
 - Assessing quality of care and medical neglect, including how to:
 - Evaluate aggregate data on facilities' performance and rates of accidents, injuries, deaths, and pressure ulcers.
 - Audit financial records to establish patterns of fraud (e.g., falsifying patient charts).
 - Assess management and personnel practices, including staffing ratios and time spent with residents.
 - Understand facilities' administration, including the roles and responsibilities of employees, family councils, and LTCOPs.
 - Understand chains of command within facilities.
 - Determine culpability for abuse and neglect (e.g., individual workers, managers, medical directors, boards, and corporate entities).
 - Whistleblower protections for employees who report abuse and assist in investigations.
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Enlist civil litigators in private practice to pursue medical neglect cases for individual and class action lawsuits.

Increase SSI rates so more low-income people have access to RCFEs.



National Level

- Implement the administration’s comprehensive agenda for nursing home reform.¹²
- Support the development and replication of innovations to prevent abuse in facilities (e.g., specialized forensics teams).
- Support the development of forensics expertise specific to abuse in facilities.
- Identify and promulgate best practices for coordinating abuse investigations among LTCOP, APS, and local, state, and federal law enforcement.
- Enforce Elder Justice Act provisions for failure to report abuse and protections from retaliation for nursing home staff.
- Develop regulations for RCFEs.
- Mandate state and federal investigators to report elder abuse in LTC facilities to local LTCOP and others who can address residents’ needs and rights.



RESOURCES

For the most up-to-date contact information and reference links to these as well as additional resources, please visit our Blueprint Resources page on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- [California Advocates for Nursing Home Reform](#) – Advocates for public policy to improve the quality of care in facilities and operates the Lawyer Referral Service (LRS), a panel of attorneys who specialize in elder abuse in facilities.
- [National Consumer Voice for Quality Long-Term Care](#) – Advocates for public policies that support quality care in long-term care settings and the rights of long-term care consumers and direct-care workers.
- [Nursing Home Inspect](#) – Database operated by ProPublica that tracks deficiencies cited by regulators and the penalties imposed in the past three years in all states.
- [Protecting Seniors by Improving Safety and Quality of Care in the Nation’s Nursing Homes](#) – 2022 White House statement.

PROMISING PRACTICES

For the most up-to-date reference links to these practices, please visit our Blueprint Resources page on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- [HB 246 \(Illinois\)](#) – Legislation to increase reimbursement rates for facilities that increase their staffing levels that is intended to target providers with high concentrations of Medicaid residents and low staffing levels as an incentive to hire and retain more workers (other states have enacted similar measures).
- [Pasadena Elderly and Dependent Adult Liaisons \(PEDAL\)](#) – A cross-departmental working group with representatives from Pasadena’s City Manager’s Office; Prosecutor’s Office; Public Health, Fire, Police, Planning and Community Development departments, the LTCOP, and Huntington Hospital that conducts coordinated inspections, brings operational deficiencies to regulatory agencies, and actively addresses violations.

TOPIC III:

The Role of the Justice System in Ensuring Elder Justice

“Victimized seniors are languishing in poverty, with their homes and/or life savings taken from them and, still, nobody refers them to the private bar.”

– Sil Vossler, Vossler Law Firm and CEJC Steering Committee member

Background

Protecting and defending older Californians’ rights requires a broad array of civil and criminal protections and remedies. These range from preventative measures like estate planning and advance planning for incapacity¹³ to the criminal prosecution of offenders. Legal interventions in elder mistreatment are often complex, raising uncertainties about victims’ mental capacity or, in the case of legal actions against institutions, requiring familiarity with regulatory requirements, financing systems, and professional standards of care. Some forms of abuse violate state, federal, or international laws or regulations.

A primary source of legal assistance for older Californians is the state’s 39 senior legal services programs, which are funded through the federal Older Americans Act (OAA) and administered through the California Department of Aging (CDA). The scope and range of services offered varies, with most programs providing advocacy with public benefits, housing, and immigration issues; education on legal matters; help with estate planning and advance directives for finances and health care; and help securing protective orders. Some programs provide additional specialized services, such as representation in conservatorship cases and assistance accessing court administered self-help programs. California’s Legal Services Developer, who is employed by CDA, works with local area agencies on aging and sub-contracted legal aid providers to develop local services. The developer is also charged with convening legal aid providers and stakeholders, identifying and implementing best practices, and providing support to the state and local Long-Term Care Ombudsman Programs (LTCOP). Other primary sources of legal aid include the California Office of Emergency Services (Cal OES), which administers Victims of Crime Act (VOCA) funding; the Legal Services Corporation (LSC); programs funded through the Interest on Lawyers’ Trust Account (IOLTA); state and local bar associations; and nonprofit attorney panels.

The need for legal services for older Californians far exceeds the supply. Many older Californians do not qualify for free legal services or have cases that legal aid programs do not handle, including complex financial abuse. Of the state’s 160,000 active lawyers, few represent victims in elder financial abuse cases, and it is not unusual for elders, particularly those in rural areas, to need to travel long distances for help. The problem is compounded by a shortage of legal referral services for seniors.

Protecting the legal rights of “unrepresented” or “unbefriended” adults poses special challenges. These terms refer to elders who lack decision-making capacity and surrogates, who have not executed advance directives, and who have experienced or are at risk for:

- Abuse, neglect, exploitation, and self-neglect.
- Having their preferences about medical treatment, long-term care, end-of-life decisions, and estates disregarded or ignored.
- Unnecessary, prolonged hospitalization when long-term care facilities require responsible parties as a condition for admission.
- Poverty, homelessness, and institutionalization.



While problems like these can be avoided by planning in advance for incapacity, few elders have developed adequate estate plans and advance directives for their health care and finances. Many, particularly those with limited incomes and assets, do not recognize the importance of advance planning and the risks involved in failing to plan. Help with advance planning is also in critically short supply. There are also shortages of services to protect those who are already experiencing diminished cognitive capacity, including representative payeeship, supported decision-making, and daily money management. For some unrepresented elders who are at risk for serious harm, conservatorship may be the only available option for protection.

“In Bayview, San Francisco, you have a lot of low-income Black families that moved up during the great migration, but as a whole have lacked social mobility and been the target of racist redlining and employment policies. So, now, you have tons of low-income families that own homes worth nearly \$1 million dollars free and clear but don’t have the liquid funds to pay \$3-4,000 for a revocable living trust to avoid probate. If that family goes through probate, they will certainly lose the home and be displaced.”

– Sil Vossler, Vossler Law Firm and CEJC Steering Committee member

Failure to plan for incapacity in advance may result in conservatorship, which is a process in which courts appoint others to act on behalf of unrepresented adults. Conservators may be family members or friends, public guardians, nonprofit agencies, and professionals in private practice. It is considered an option of last resort because of its restrictive nature (conservators are typically granted wide-ranging and ongoing authority) and the fact that the process is costly to both the individuals involved and the state. Many people have negative perceptions of the process, some based on reported failures to hold conservators, judges, lawyers, and others involved in the process accountable for abusive or corrupt conduct. Widely disseminated misrepresentations of the system (e.g., about who can initiate conservatorships and why), however, have also led to widespread misperceptions.

Another critical unmet need is for legal services to prevent the loss of homes, particularly in poor and underserved communities. While substantial accrued home equity is taken from low-income communities in California every year through illegal foreclosures, foreclosed homeowners are rarely able to find help. In addition to depriving individuals of their homes and a lifetime of saved home equity, foreclosures put once housing-stable people at risk of homelessness, hinders social mobility in low-income communities, and perpetuates and exacerbates the racial wealth gap.

Recent events have created new legal needs and exacerbated long-standing problems. The rapid onset of COVID-19 highlighted the need for estate planning, advance planning for health care, help securing pandemic relief funds, and avoiding COVID-related evictions or foreclosures. These needs were particularly great for non-affluent, BIPOC, and other marginalized elders and their families, who were disproportionately impacted by the pandemic. Media attention to the highly publicized Brittney Spears conservatorship contest prompted new calls for reforms to California's conservatorship system, including greater accountability, transparency, and less restrictive alternatives.

The Black Lives Matter movement and calls for realigning law enforcement resources and priorities have prompted advocates to reevaluate law enforcement's role in elder abuse prevention and acknowledge disparities in older victims' attitudes toward criminal justice responses. It further highlighted the need for establishing trust with disenfranchised groups and for adopting victim-focused, preventative, and supportive services.

Achieving justice and equity for older Californians further requires balancing the rights and needs of victims, their communities, and offenders; and building trust among criminal justice professionals, health and social service providers, and the communities they serve. The field of elder justice's longstanding commitment to interdisciplinary exchange and collaboration, which has led to constructive partnerships with law enforcement, courts, and the legal community, provides a firm foundation on which to build.



Progress Toward Implementing B2B Recommendations

CEJC initiatives to meet the legal needs of older Californians include the following:

- Advocated for starting a Working Interdisciplinary Network for Guardianship Stakeholders (WINGS) in California. This included working with Congressman Ted Lieu on a proposal to secure federal funding for WINGS and alerting state officials and stakeholders about the need for WINGS and opportunities for securing federal funding.
- Advocated for public guardians to receive state training funds.
- Hosted webinars to raise awareness about elders' legal needs and innovations for meeting them, including:¹⁴
 - Exploring Restorative Approaches to Elder Justice: A four-part series that included:
 - Syracuse, New York's "Long Game" for Adopting Restorative Approaches to Elder Abuse (January 2022).
 - A Circle Approach to Healing the Harm of Financial Exploitation (February 2022).
 - A Cultural Perspective on Restorative Justice (March 2022).
 - Restorative Justice/Elder Abuse Showcase (April 2022).
 - Stop the Bleeding: Temporarily Freezing Assets in Elder Abuse Cases (September 2021).
 - A Conversation on Applying Restorative Justice to Elder Abuse (April 2021).
 - Absent Authority: Making Conservatorship a Positive Tool of Transformation (March 2021).
 - Fraud & Financial Abuse Prevention Networks: Showcasing Innovation (January 2021).
 - Civil Remedies for Empowering Victims of Elder Financial Exploitation (December 2019).
 - Reforming Adult Guardianship Through Working Interdisciplinary Networks of Guardianship Stakeholders (July 2019).
 - State ID Theft Coalitions: Stolen Identities and Beyond (May 2019).
 - What's New in Undue Influence: Definitions, Tools, and Court Responses (November 2018).
 - International Financial Crimes: How Do We Turn the Tide and Help Older Victims? (August 2018).
 - Engaging Financial Institutions in Abuse Investigations (June 2018).
- Helped organize a presentation on the role of state legal services developers and medical/legal partnerships for the National Network of State Elder Justice Coalitions (NNSEJC).
- Discussed the unmet legal service needs of older Californians with CDA's legal services developer.

New Developments



State Level

A 2019 survey by the California Bar Association found that most Californians do not seek or receive legal help because they do not recognize legal problems or how to access help.¹⁵ The survey also revealed that the help received is often insufficient to fully resolve problems.

In 2020, the California Bar Association launched a working group to explore the use of paraprofessionals to expand the pool of affordable legal service providers (some experts, however, have raised concerns about the potential for abuse using this approach).

Several “elder courts” suspended operations despite widespread stakeholder support. This has been attributed to retrenchments in funding even though no analyses of program costs are available.

AB 1194, enacted in 2022, provides \$1.3 million for the Judicial Council to complete a formal comprehensive review of the state’s conservatorship system, which must be delivered to the legislature by Jan. 1, 2024.

California included \$1.25 million for training public guardians in allocations made for APS training in 2016 and 2019.

CDA created the Office of Long-Term Care Patient Representative to provide representation on “medical decision-making interdisciplinary teams” (IDTs) for unrepresented SNF residents under Health and Safety Code Section 1418.8. The program responds to a court order following *California Advocates for Nursing Home Residents v. Smith* (2019), which requires facilities to ensure that patient representatives are part of all IDT meetings. IDTs are convened when patients who lack decision-making capacity are prescribed treatments or care that requires consent. Prior to the ruling, patient representatives were permitted, but not required, to participate.



National Level

In 2017, the Uniform Law Commission issued the [Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act](#) (UGCOPAA), which was developed with input from experienced judges and organizations that advocate for guardianship reform. Article 5 provides recommendations for limited protective orders that can be used to authorize consent or make decisions regarding specific issues, such as buying or selling homes, signing leases, accessing financial records, appointing health care decision-makers, making changes on life insurance policies, or claiming pensions. Once completed, the court's involvement ends. Few states, including California, have adopted Article 5.

In 2022, the U.S. Department of Justice hosted the virtual [Elder Justice Decision-Making Capacity Symposium: The Role of Decision-Making Capacity in Elder Justice Cases that Reach Civil and Criminal Courts](#), which brought together experts to review progress in understanding decision-making capacity and formulate recommendations for the field.¹⁶

In May 2021, the National Guardianship Network convened 125 advocates, family guardians, judges, lawyers, scholars, and other stakeholders for the Fourth National Guardianship Summit. The group discussed the current state of guardianship and developed 22 recommendations for reform.¹⁷

In 2021, the Administration for Community Living (ACL) launched the [Older Americans Act Performance System](#) to collect data on OAA Title III, VI, and VII programs, including data on legal assistance programs' clients and their legal cases (the first reporting period ended on Sept. 30, 2022).

The ACL also promoted elder justice through the creation of the National Center on Law and Elder Rights (NCLER) and by providing funding for states to develop WINGS.

Challenges and Needs

Civil

Gaps, shortages, and disparities in access to legal services. Underserved groups include elders who are non-affluent, BIPOC, homebound, have limited-English proficiency, live in rural communities, and reside in long-term care facilities. Specific areas of need include:

- Foreclosure prevention and litigation.
 - Assistance to landlords in tenant landlord disputes when landlords are the victims (currently, OAA-funded programs only represent tenants).
 - Assistance recovering restitution.
 - Representation, advocacy, and surrogates for non-affluent, unbefriended or unrepresented adults.
 - Estate planning and advance directives, including living trusts and powers of attorney.
-

Many older Californians do not engage in estate and advance planning. Reasons cited include:

- Those in need may lack liquid funds to pay for living trusts and other advance planning instruments.
 - Older adults may be reluctant to discuss estate and/or advance planning for fear of losing autonomy or being seen as dependent.
 - Professions who work with elders often do not recognize when advance directives are needed or advisable (e.g., when doctors prescribe or remove patients from medications).
 - The need for authority is often identified during medical, financial, or family crises when fewer options are available.
 - California Probate Code section 4675 requires that when advance health care directives (AHCD) are executed by skilled nursing home residents, they must be witnessed by LTCOP representatives. Owing to a shortage of witnesses, many SNF residents are denied this protection. Many RCFE residents, who are not covered by the statute, have similar needs.
-

Lawyers lack training in key areas, including:

- Capacity and undue influence.
 - How cognitive impairments relate to legal standards of decision-making.
 - How to work with clients with cognitive and communication impairments.
 - The aging services network.
 - The need for advance directives, particularly by non-affluent elders.
-

- Certificates of independent review.
 - Financial elder abuse.
 - Predatory lending.
 - Foreclosure prevention and litigation.
-

Lack of private lawyers who specialize in financial elder abuse.

Lack of lawyer referral services to connect seniors with private elder law attorneys.

Few attorneys are litigating cases to recover the full amount of funds owed to victims or to compensate them for emotional harm. This includes cases of financial abuse and abuse and neglect in long-term care facilities. Barriers include:

- Public and private attorneys lack the requisite training.
 - Public and private nonprofit attorneys lack the up-front funds that are often needed to litigate these cases.
 - Many public and nonprofit agencies have policies that prevent them from referring clients to private attorneys. Similarly, multidisciplinary teams (MDTs) in some communities prohibit private attorneys from participating. For example:
 - County Counsel in some counties prohibit APS programs from making referrals directly to civil attorneys. Although some permit them to refer clients to bar associations, many clients are unable to follow through on referrals without help.
 - County Counsel in some counties prohibit private attorneys from participating on MDTs or forensic center teams. Some restrict public employees from receiving advice from non-public attorneys, including nonprofit legal assistance program personnel, regardless of the setting or circumstances.
 - As more private attorneys are litigating nursing homes, some LTCOPs report that they are being aggressively pressured to provide information. The attorneys do not understand LTCOP policies and practices for handling client and facility information.
 - Some attorneys who claim to be elder abuse experts lack the expertise and experience that is needed to handle complex cases.
-

Lack of data on civil interventions and services, including lawsuits, conservatorships, protective orders, advance directives, and civil restitution orders that can be used to demonstrate outcomes, impact, disparities in access, unmet needs, and trends.

Lack of research and information about alternatives to litigation, including collaborative mediation and restorative justice.

Lack of transparency and accountability in California’s conservatorship system.

Lack of public awareness and understanding about legal rights, interventions, and services, including:

- The benefits of advance planning and the risks of not having plans.
 - How advance directives work. Some believe, for example, that “agents” or “attorneys in fact” for powers of attorneys (those who have been granted authority) must be attorneys or that they can take possession of the assets of “principles” (those granting authority).
 - Conservatorship, including how it works, who can petition and serve, due process protections and other rights of conservatees, and alternative options.
 - The special rights accorded certain groups or that apply in special circumstances, including the rights of people with disabilities, consumers of long term care, immigrants (both documented and undocumented), residents of long-term care facilities, and correctional institution inmates.
-

Barriers to coordination and uniformity in legal assistance services, including:

- Lack of a state “home” for public guardians and public conservators in government impedes local, state, and national coordination, data collection, oversight, and the exchange of information and innovations.
- Variations in how family law courts and probate courts handle elder abuse cases and lack of contact/coordination between them.
- Lack of coordination and information sharing among legal services providers.
- Lack of clarity in statutes and legal documents, including:
 - Capacity declarations for conservatorship are cumbersome and confusing.
 - Liability provisions in California’s financial abuse statute. Some courts have held that an “assister” of financial elder abuse must have “actual knowledge” to be held liable (*Das v. Bank of America*) although the standard is that the abuser “knew or should have known” that their conduct would cause harm.

Criminal

Little data exists on criminal interventions in elder abuse cases that could demonstrate their impact, outcomes, and disparities. Information is needed on police reports, charges, prosecutions, restraining orders, restitution ordered and collected, and case outcomes. Data is also needed to identify trends like the impact of the pandemic.

There is a lack of clarity and consistency concerning the role of law enforcement in responding to elder abuse reports. For example, APS and LTCOP are required to report to law enforcement, but some jurisdictions reportedly do not have processes or policies for responding to cross-reports.

When law enforcement officers receive reports of theft involving powers of attorney, deeds, or other legal documents, they often view them solely as “civil matters” and do not investigate.

Lack of training for law enforcement, including in the following areas:

- Cognitive impairments.
 - Investigating mistreatment in long-term care facilities.
 - Crimes committed using civil documents (e.g., powers of attorneys).
-

Law enforcement officers encounter the following barriers in responding to financial abuse (see [Topic VI: Financial Abuse and Exploitation](#), page 73, for more information):

- Lack of authority to secure critical evidence from financial institutions in cases involving older adults who lack capacity to give consent.
 - Lack of training in cognitive impairment, including its impact on financial decision-making.
 - Lack of criminal statutes and remedies for addressing undue influence.
-

High monetary thresholds for felony elder financial abuse prevents victims with relatively small losses from receiving justice.

Limitations on the use of video conferencing or videotaped testimony.

Although the impact of COVID-19 and calls for police reform are not yet fully understood, some advocates suggest that more crimes against older adults have been committed and gone unchecked as the result of:

- Shortages in police, prosecutors, and court personnel.
 - Reduced police visits to homes and facilities.
 - The release of non-violent offenders from prisons and jails.
 - An uptick in scams.
 - Tensions between law enforcement and stakeholders.
-

Recommendations

General

Develop a state data collection system to collect information on police reports (including complaints that are not pursued), prosecutions, civil lawsuits, conservatorships, restraining orders, and restitution (ordered and recovered) that can be used to identify trends, disparities in access, outcomes, and legal needs.

Explore the use of restorative justice as an alternative to traditional legal approaches to preventing abuse and reducing its harm through the following:

- Support restorative justice pilot projects.
- Encourage judges to order appropriate cases into mediation, arbitration, sentencing circles, family conferences, and other restorative justice processes.
- Explore the use of restorative justice approaches in the following situations:
 - As a diversion from prosecution or a condition of probation.
 - As an alternative to conservatorship in cases involving family conflicts.
 - As an alternative to restraining orders.
- Provide opportunities for professional exchange among elder justice and restorative justice advocates to share experiences, insights, and resources, and to explore collaboration.



Civil

Urge California’s Chief Justice to convene stakeholders, using the WINGS model, to evaluate current practices and needs related to conservatorship, including the need for greater accountability and alternative options (e.g., limited protective orders for authorizing consent or making specific decisions).

Provide funding to public guardian and public conservator programs.

Create a state office to oversee and provide support to county public guardian and public conservator programs, provide training and data collection, and explore and disseminate innovations and promising practices.

Develop a comprehensive plan to assist unbefriended/unrepresented adults who need assistance with the following:

- Stopping elder abuse and mitigating its impact (including recovering assets).
 - Making medical decisions requiring consent.
 - Arranging for and authorizing placements in long-term care facilities.
 - Requesting evidence from financial institutions.
 - Securing restraining orders.
 - Daily money management.
 - Supported decision-making.
 - Free or affordable trustees and conservators.
-

Improve access to legal services by underserved groups through the following:

- Provide outreach to underserved communities through clinics or lawyers’ visits to senior centers, senior housing, or other accessible sites.
 - Develop strategies for improving access to legal assistance in rural areas (e.g., though incentive programs like paid internships and loan forgiveness programs).
 - Provide lawyers’ home visits for homebound adults.
 - Expand programs for helping non-affluent older adults with estate planning and advance directives.
 - Explore alternative remedies for recovering assets and mitigating harm, including mediation, restorative justice, small claim courts, and qui tam litigation.
 - Promote the development of legal-gerontological social work partnerships to help facilitate appropriate referrals to attorneys and ensure that older adults with cognitive and physical limitations have supportive advocates.
-

Expand the role of the state legal services developer to:

- Monitor the type and scope of legal services currently being provided and identify gaps.
 - Explore avenues for meeting the demand for legal services that includes partnerships with the private bar, improved coordination among providers of legal, health, and social services, and exploring promising practices used within and beyond California.
 - Work with stakeholders to address concerns about liability that discourage legal assistance providers from offering estate planning.
-

Conduct public awareness campaigns that focus on:

- Elder rights, including civil rights, the rights of members of protected classes, consumers' rights, LTC facility residents' rights, the rights of people with disabilities, and crime victims' rights.
- The benefits of estate planning and finding help to get it done.



Promote the involvement of private attorneys in preventing abuse while ensuring accountability and avoiding conflicts of interest through the following:

- Address barriers that public and nonprofit agency personnel face in making referrals to private attorneys and lawyer referral networks and obstacles to including attorneys on MDTs, forensics centers, and financial abuse specialist teams (FASTs).
- Promote the development of specialized lawyer referral services and panels that employ stringent policies and protocols for screening and accountability.
- Provide training for front lines workers, including those representing APS, LTCOP, police departments, FAST teams, MDTs and public agencies on making referrals to private attorneys, including when it is appropriate, resources for doing so, safeguards for information sharing, and liability protections.
- Provide training for civil attorneys on how to work with public and private nonprofit agencies, including what information agencies have access to and when and how it can be shared.

Criminal

Review the existing role of law enforcement in California’s elder and dependent adult mandatory reporting and response system. Areas to explore include:

- Cross-reporting between law enforcement and other entities.
 - Consistency in responses across jurisdictions (including investigations, charges, and outcomes).
 - Barriers faced in conducting investigations (e.g., accessing or interpreting evidence).
-

Develop protocols and agreements among first line responders for handling abuse reports and training to ensure they are followed.

Provide training to law enforcement professionals in:

- Investigating abuse in long-term care facilities, including sexual assault, financial abuse, and criminal neglect.
 - Reporting financial crimes to state and federal law enforcement and regulatory entities.
 - Investigating crimes involving civil instruments like powers of attorney and trusts.
-

Direct prosecutors to prioritize high impact cases that offer maximum benefits to society.

Explore procedural innovations to improve efficiency, equity, and outcomes, such as elder courts and the expanded use of small claims court for crimes involving small or moderate losses.

RESOURCES

For the most up-to-date contact information and reference links to these as well as additional resources, please visit our *Blueprint Resources* page on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- [**Beware of the Con in Conservatorships: A Perfect Storm for Financial Elder Abuse in California**](#) – Article by Kenneth Heisz, Esq. that appeared in the *National Journal of Elder Law Attorneys* (vol 17, e-Issue, Spring 2021).
- [**California Advocates for Nursing Home Reform**](#) – Statewide nonprofit advocacy organization that provides direct advocacy, community education, legislation, and litigation on behalf of long-term care consumers and financial abuse victims. CANHR also operates a lawyer referral Service.
- [**California’s Attorney Deserts: Access to Justice Implications of the Rural Lawyer Shortage**](#) – 2019 report by the California Commission on Access to Justice (CCAJ) that describes places in the state with unmet legal needs and offers solutions.
- [**Department of Justice Elder Justice Initiative**](#) – The EJI provides a portal for a wide range of DOJ resources for older adults, law enforcement agencies, and professionals who work with elders. It also supports training, research and technical assistance, including a resource center for elder abuse multidisciplinary teams.
- [**Elder Justice Decision-Making Capacity Symposium: The Role of Decision-Making Capacity in Elder Justice Cases that Reach Civil and Criminal Courts**](#) – Videos, transcripts, and background materials for this 2022 event hosted by the U.S. Department of Justice.
- [**Justice in Aging**](#) – National nonprofit organization that focuses on protecting the health and economic security of low-income older Americans, including nursing home residents, women, members of the LGBTQ community, people of color, and people with limited English proficiency.
- [**Justice Map Report**](#) – 2019 report by the California Bar Association that describes Californians’ unmet civil legal needs and the gap between those needs and the resources available to address them.
- [**Legal Aid Association of California**](#) – Membership organization of over 100 nonprofit organizations around the state that provide legal assistance to low-income Californians through advocacy, training, and support.

- [National Center on Law & Elder Rights \(NCLER\)](#) – Operated by Justice in Aging under a contract with the Administration for Community Living, NCLER provides legal training, case consultation, and technical assistance on legal systems development. Among its resources are the [Elder Justice Toolkit](#), which contains information on civil legal remedies, practice tips, and sample pleadings for seeking protection and redress for victims of elder abuse.
- [POST Guidelines: Elder and Dependent Adult](#) – Produced by the California Commission on Peace Officer Standards and Training.
- [Social Work Practices in California Legal Aid Organizations](#) – Report by One Justice and The Legal Aid Association of California that examines the benefits and challenges of integrating social work and legal services.
- [Working Interdisciplinary Networks of Guardianship Stakeholders \(WINGS\) Briefing Paper: Advancing Guardianship Reform and Promoting Less Restrictive Options](#) – Produced in 2019 by the American Bar Association Commission on Law and Aging (ABA COLA).



PROMISING PRACTICES

For the most up-to-date reference links to these practices, please visit our [Blueprint Resources page on our website at www.elderjusticecal.org/2023-blueprint-resources.html](http://www.elderjusticecal.org/2023-blueprint-resources.html).

- [API Legal Outreach of San Francisco](#) – Nonprofit agency in San Francisco that provides estate planning and other legal services to low-income Asian and Pacific Islander elders.
- [Bet Tzedek](#) – Bet Tzedek in Los Angeles offers a wide range of free legal services for older adults, including advance planning, supported decision-making, and assistance with conservatorship.
- **DOJ Listening Sessions with Law Enforcement about Elder Justice** – DOJ’s Elder Justice Initiative held listening sessions with law enforcement to explore barriers to their work. Among the most frequently cited was inadequate leadership and support from above, inadequate collaboration with APS, tensions over racial justice protests, and competing demands on officers’ time as a result of COVID.
- [Elder Justice Fellowship Program](#) – Program sponsored by Equal Justice Works that placed 22 Fellows (lawyers) at legal services organizations across the country to address the gap in civil legal services for victims of elder abuse and exploitation, with a special emphasis on serving rural communities.
- [The Medical-Legal Partnership for Seniors Clinic \(MLPS\)](#) – Partnership between the University of California San Francisco and the San Francisco VA Medical Center that provides advance health care, estate planning, public benefits, and wrap-around legal services to older patients. UCSF law students work in collaboration with medical providers to get a deeper understanding of the intersection between law and health.

TOPIC IV:

Long-Term Services and Supports (LTSS) and Caregiving

“We care for our families and we care for other people’s families—it’s been in our history forever. Our relatives tend to be sicker, have more health conditions, and more complex health conditions. But because of the fragmentation that exists today, we may not have what we’ve traditionally had—the church and relatives around us. Our families are smaller and spread out. We may be caring for one parent here, another over there, and some siblings and grandchildren too. So, we have very unique caregiving needs and it’s much more complicated.”

– CEJC Chair Donna Benton, on Black family caregivers

Background

The Americans with Disabilities Act (ADA) ensures Americans with disabilities the right to reasonable accommodation in the workplace and public spaces. The U.S. Supreme Court’s 1999 landmark *Olmstead v. L.C.* decision builds on the ADA, affirming that the right to reasonable accommodation extends to long-term care settings and further guarantees people with chronic, disabling illnesses and conditions the right to receive care in the least restrictive and most integrated settings possible. The decision resulted in a dramatic shift from institutional care to home-based services and renamed users of long-term services and supports (LTSS) as “consumers,” emphasizing their right to choice and protection in the LTSS marketplace.

Ensuring LTSS consumers’ rights requires that they have choices in housing, caregivers, assistive devices, transportation, meals, and other goods and services. Like all elders and people with disabilities, they have a right to special protections against abuse, neglect, exploitation, and fraud. As consumers, they have a right to information about the goods and services they use that is easily understandable, government regulation to ensure that those goods and services meet minimum standards for safety and quality, and stringent enforcement of those regulations.

Multiple entities have a role in helping LTSS consumers access goods and services. Aging and Disability Resource Connections (ADRCs) serve as points of entry into the state’s LTSS system, providing information, advice, counseling, assistance finding and hiring personal care attendants, case management, legal aid, transportation, and health insurance counseling and advocacy. LTSS providers are held accountable through regulation, licensure, complaint investigations, and civil and criminal remedies. The Division of Medi-Cal Fraud & Elder Abuse of the California Department of Justice, the California Department of Consumer Affairs, the Department of Public Health, and professional licensing bodies are among the entities responsible for ensuring accountability.

LTSS consumers face myriad challenges to exercising their rights. These include a shortage of direct care workers, problems with worker screening and supervision, lack of training and guidance for workers, limited availability and oversight of assisted living facilities, and long-term care financing systems that favor institutional as opposed to community-based care. A critical shortage of assistance with decision-making exposes adults with cognitive impairments to heightened risk for abuse, neglect, self-neglect, and exploitation.

Caregivers

Family caregivers are key to enabling elders with disabilities to live independently and safely in their homes and communities. According to a 2021 study by the UCLA Center for Health Policy Research, an estimated 6.7 million Californians provided care for family members or friends with severe chronic illnesses or disabilities.¹⁸ Those caring for adults with Alzheimer’s disease and related dementias provided nearly \$19 billion of unpaid care in 2021.¹⁹

Many caregivers face physical, financial, and emotional challenges and stresses that affect their ability to provide care. The UCLA study also showed that over 44% report experiencing financial stress and over 13% report experiencing physical or mental health problems. Failing to address caregivers’ needs not only places caregivers’ security and wellbeing at risk, but that of those they care for as well.

A variety of resources exist for family caregivers and for LTSS consumers who need paid caregivers. Major sources of support for family caregivers are the state’s 11 nonprofit Caregiver Resource Centers (CRCs), which serve caregivers of adults affected by dementias and brain injuries.



The centers, which are available to caregivers in all counties, offer free or low-cost counseling, care planning, legal and financial consulting, and respite. The state’s In-Home Supportive Services (IHSS) program provides personal care attendants to help LTSS consumers with housecleaning, meal preparation, laundry, grocery shopping, personal care, accompaniment to medical appointments, and protective supervision. Some IHSS programs in the state allow Medi-Cal eligible consumers to hire workers (including friends and family members) themselves, in which case they are responsible for screening, supervising, and firing workers. Some programs contract directly with agencies that provide personal care workers (called “contract mode”), in which case, the agencies assume employers’ responsibilities.

Progress Toward Implementing *B2B* Recommendations

In 2016, California was struggling to integrate Medi-Cal funded health and social supports through a new managed care system. *B2B* contained recommendations for strengthening elder justice protections in the new system. However, the program ultimately proved too costly and unpopular with beneficiaries, resulting in calls for a new approach a few years later. The LTSS landscape has changed dramatically since then as the result of economic improvements and the election of a pro-aging governor. These changes cleared the path for dramatic changes in the aging and disability service system, beginning with the Governor’s Master Plan for Aging (MPA). Steps that CEJC has taken to protect the rights of LTSS consumers and assist their caregivers include the following:

- Recommended, for inclusion in the MPA, the following steps for protecting LTSS consumers’ rights and security:
 - Provide information about risk factors and indicators of abuse by paid and family caregivers.
 - Include caregiver assessments as part of the intake process for all health and social services to ensure caregivers’ suitability to provide care and identify their needs.
- Conducted presentations on elder justice and elder abuse at the California Association of Area Agencies on Aging (C4A)’s annual conferences.
- Participates on the California Collaborative for Long Term Services and Supports to promote coordination and collaboration among the elder justice, caregiver, and LTSS networks.
- Partnered with CDSS, CCoA, and others to plan and conduct Elder and Dependent Adult Awareness Month events that raise awareness about elder abuse, neglect, and exploitation.

New Developments



State Level

The MPA led to an overhaul of the state’s LTSS system that focuses on equity and innovation and calls for expanding home and community-based care. It further calls for increased access for the lowest-income and underserved, data to track progress, and supporting and reforming protective services. The MPA further acknowledges the impact of social and economic factors on health, and underscores the need for a skilled, well-paid workforce. Specifically, it calls for:

- Increased funding for assisted living and residential care facilities for the elderly (RCFEs) for low-income adults, particularly those experiencing or at risk for homelessness and behavioral health problems. The MPA provides for the purchase, rehabilitation, or construction of new facilities, promoting the development of accessory dwelling units, and creating incentives to construct more low-income housing.
 - Increased funding for IHSS training and the expansion of “contract mode” options.
 - Exploring options for providing community health workers (CHWs)²⁰ to conduct isolation checks and home visits (in 2022, CMS approved a request by California to add CHWs as a Medi-Cal benefit, beginning on July 1, 2022).
 - Enhanced protections for elders receiving care in their communities. Specific measures include:
 - Expanding and increasing the scope of Adult Protective Services (APS).
 - Ensuring that public guardian and public conservator programs have the resources they need to serve the growing population of adults with cognitive impairments and mental illnesses.
 - Reviewing the legal service needs of older adults, assessing the capacity of existing services, and exploring alternative approaches to providing services.
-

The Aging and Disability Resource Connection (ADRC) was expanded to provide short-term service coordination, options counseling, and warm handoffs to more older Californians.

California Advancing and Innovating Medi-Cal (CalAIM), a managed care program, was created to integrate health and social supports for Medi-Cal beneficiaries. The program addresses social determinants of health and uses a holistic approach to provide care and avoid nursing home placement.

The California Department of Aging (CDA), in partnership with the Institute on Aging, expanded the reach of the Friendship Line, a behavioral health “warmline” that provides emotional support for older adults and adults with disabilities. The service is now available statewide.

The Hubs & Spokes Network for Aging & Disability, a CDA-led initiative, was created to explore a “no wrong door” approach to accessing services statewide with an emphasis on rural counties.

California Community Transitions (CCT), a Medi-Cal funded program available through DHCS, assists nursing home residents move back into their homes and communities. It helps them secure housing, IHSS, medical equipment, transportation, and other supports.

The Office of Medicare Innovation and Integration was created within DHCS to develop new care models for California’s Medicare beneficiaries.

Plans are in progress to establish a permanent IHSS Back-Up Provider System.

The pandemic highlighted the extent to which older adults’ health and safety are linked to the wellbeing of their caregivers. It exposed the LTSS system’s dependence on volunteers and the intense financial and emotional pressures that family caregivers face. As caregivers took on additional COVID-related responsibilities like home schooling and caring for members of their own families, many were forced to leave paid employment.

COVID also exposed LTSS workforce shortages due in part to low wages, lack of health insurance, sick leave, and other benefits and few opportunities for career advancement.

National Level

The Recognize, Assist, Include, Support, & Engage (RAISE) Family Caregivers Act of 2017 (Public Law 115-119) created a Family Caregiving Advisory Council to provide advice, recommendations, and best practices to the Secretary of the U.S. Department of Health and Human Services (DHHS). In November of 2020, the council adopted 26 recommendations for recognizing and supporting family caregivers by improving and coordinating federal, state, tribal, and community programs and activities. The recommendations are a key component of the Biden Administration’s National Family Caregiving Strategy and “care economy” proposals. The strategy calls for increased funding for home and community-based services, increased pay and benefits for direct care workers, and paid family and medical leave for family caregivers.

The 2022 National Strategy to Support Family Caregivers was developed jointly by the advisory councils created by the [RAISE Family Caregiving Act](#) and the [Supporting Grandparents Raising Grandchildren Act](#) with input from stakeholders.

Challenges and Needs

Despite programs like the California Community Transitions (CCT), LTSS consumers continue to face barriers to receiving the care they need in their homes and communities. Barriers include:

- Failure of skilled nursing providers to conduct Minimum Data Set (MDS 3) to assess residents' ability to return to their communities.
- Lack of housing for eligible nursing home residents to return to, particularly for those with special needs, a situation that has been exacerbated by the loss of hundreds of RCFEs in recent years.
- Lack of supportive and protective services, including home care, IHSS, legal assistance, APS, home delivered and congregate meals, senior centers, and adult day care programs.
- Lack of assistance for people with cognitive impairments and behavioral health problems, including supported decision-making, public guardians, money management, housing, behavioral health services, and assistance managing care.
- Lack of uniform LTSS service delivery structures across the state and disparities in access to services within communities. Rural counties in particular lack critical LTSS resources.
- LTSS providers, particularly new ones, lack information about elder abuse, neglect, self-neglect, and exploitation that could lead to early identification and intervention. This includes information about risk factors, indicators, and risk reduction techniques.
- Restrictions against hiring family members with criminal backgrounds as IHSS workers disproportionately affect communities with higher rates of involvement with the criminal justice system, including the poor and BIPOC.
- Lack of culturally appropriate services and support for caregivers. Barriers to accessing mainstream programs include the following:
 - Existing programs narrowly define family caregivers as offspring and spouses, while caregivers in some communities include friends and non-nuclear family members.
 - Existing programs may fail to recognize caregiving patterns, including the fact that some families take action together or adopt “household approaches” to caregiving.
 - Some caregivers who could benefit from services do not self-identify as caregivers, instead seeing their caregiving responsibilities as “what families do”. As a result, they do not seek out or accept help.
 - In some communities, cultural prohibitions exist against revealing family conflicts or problems to outsiders.
 - Negative perceptions about social services or law enforcement prevent some from reporting problems or abuse.

Recommendations



State Level

Create more and improve access to existing services for LTSS consumers with cognitive impairments and behavioral health challenges.

Identify and respond to disparities in access to LTSS programs and services across the state (e.g., permit underserved counties to offer services on a multi-county basis).

Promote the development of:

- Supports for family caregivers, including paid family leave benefits, caregiver tax credits, and other approaches that enable family caregivers to remain employed.
 - Restorative justice approaches to help families plan and oversee caregiving, address conflicts, and respond to abuse.
 - Housing for low-income consumers, including options for intergenerational families.
 - Supported and surrogate decision-makers, daily money management, and public guardians.
 - Paid caregivers, including “contract mode” IHSS programs.
 - Help to preserve financial security and prevent financial abuse, including comprehensive estate planning and advance directives.
-

Strengthen the regulation of RCFEs and enforce penalties for violations.

Develop a three-pronged public health approach to preventing abuse and neglect:

- Primary prevention includes raising awareness about risk factors and taking steps to reduce them. Examples including using community health workers (CHW) to provide education, motivational interviewing, and advocacy for high-risk elders.
 - Secondary prevention includes screening and early intervention. Examples include training professionals, the public, and other “gatekeepers” in how to recognize the early signs of cognitive decline, self-neglect, elder abuse, and caregivers who need help. These groups also need information about protective and supportive services.
 - Tertiary prevention includes services to mitigate harm. Examples include peer support programs for victims, legal assistance to recover losses, and educational programs for abusive or negligent caregivers.
-

Explore opportunities for employing CHWs to assist underserved elders.

Expand the roles of LTSS providers in preventing, identifying, and responding to abuse, neglect, self-neglect, exploitation, and the violation of elders' rights. Examples include:

- Add questions to admissions applications to identify high risk situations and trigger follow up (e.g., red flags include high stress and low social support for caregivers).
- Promote coordination between providers of elder justice and LTSS services at the state and local levels.
- Develop a centralized warm line (or expand an existing one like the Friendship Line), in partnership with APS and crisis lines, to accept non-emergency reports of elder mistreatment and self-neglect to offer support, present options, and encourage callers to reduce their risk or seek help.

Promote the rights of LTSS consumers through the following:

- Hold skilled nursing facilities accountable for assessing residents' desire and capacity to transfer to less restrictive levels of care as required in MDS 3 assessments.
- Raise public and professional awareness about elder rights, including the right to live and receive services in the most independent and integrated setting appropriate.
- Include consumer advocates and others with expertise in elder rights on MDTs.

Adopt culturally informed approaches to caregiving. These include:

- “Family household approaches” that acknowledge that in some cultural and ethnic communities, families are likely to share caregiving responsibilities and act together.
- Extend the definition of family caregiver used in determining eligibility for programs to include “families of choice” to acknowledge that family membership may extend beyond biological or nuclear family members.
- Programs for BIPOC caregivers that reflect and support family members' relationships and patterns of mutual support and caregiving.
- Review criteria used in criminal background checks for IHSS workers and other paid caregivers to mitigate the impact of discrimination in the criminal justice system (e.g., identify policies that disproportionately impact communities with higher rates of criminal justice involvement).

National Level

- Promote the development and expansion of long-term care financing programs that prioritize community based as opposed to institutional care.
- Allow states to use Medicaid funding for community health workers (CHWs) to conduct home visits to isolated elders at risk of loneliness, abuse, neglect, self-neglect, and exploitation.²¹
- Promote the implementation of the 2022 National Strategy to Support Family Caregivers.

RESOURCES

For the most up-to-date contact information and reference links to these as well as additional resources, please visit our [Blueprint Resources page](http://www.elderjusticecal.org/2023-blueprint-resources.html) on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- [**Caring for the Future: The Power and Potential of America’s Direct Care Workforce**](#) – Report by PHI that describes the status of the direct care workforce and the challenges that workers face and offers recommendations for policymakers, employers, advocates, and long-term care leaders.
- [**Family Caregiver Alliance**](#) – Provides direct services to, and advocacy on behalf of, family caregivers of adults with physical and cognitive impairments, and advocates for policy, system development, research, and public awareness on the state, national and international levels.
- [**Managing Someone Else’s Money**](#) – Guide developed by the Consumer Financial Protection Bureau (CFPB) for caregivers who are responsible for managing the finances of those they provide care to.
- [**National Alliance of Caregivers**](#) – Network of national organizations that advocate for public policy to meet the needs of family caregivers.
- [**National Strategy to Support Family Caregivers**](#) – 2022 ACL report, developed by the Advisory Councils established by the RAISE Family Caregiving Act and the Supporting Grandparents Raising Grandchildren Act, that reviews the current state of family caregiving and offers recommendations for how the federal government, states, tribes, territories, communities, and the private sector can assist family caregivers.
- [**Promoting Caregiving Across the Full Community: The Role for Public Health Strategists**](#) – Document developed by the Centers for Disease Control and Prevention (CDC) and the Alzheimer’s Association that offers a public health approach to dementia caregiving.
- [**Supporting Black Caregivers and Older Adults**](#) – Interview with Donna Benton, CEJC Chair and Research Associate Professor, USC Leonard Davis School of Gerontology, by Justice in Aging Senior Staff Attorney Vivianne Mbaku for the National Center on Law and Elder Rights (NCLER) in observance of Black History Month and National Caregivers Day (February 18, 2022).

PROMISING PRACTICES

For the most up-to-date reference links to these practices, please visit our Blueprint Resources page on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- **[Empowered Aging’s Healthcare Career Pathways Program](#)** – Provides supported training certification for direct care workers to address the state’s critical shortage of healthcare workers.
- **[Ensuring Safety: IHSS Caregiver Back-up System \(BUS\)](#)** – Emergency 24-hour caregiver program in Riverside County that provides emergency caregivers to APS, IHSS, and health plan consumers.
- **[Homebridge](#)** – Nonprofit organization that employs 350 caregivers and 100 support and administrative staff who speak over 25 languages and represent dozens of cultures and backgrounds who work in small care teams to assist IHSS clients achieve their goals.
- **[KINDER \(Knowledge and Interpersonal Skills to Develop Exemplary Relationships\)](#)** – Online course for dementia caregivers to enhance their relationships with care recipients and reduce the risk of mistreatment, which was developed by the University of Southern California (USC) Family Caregiver Support Center with input from racially and ethnically diverse family caregivers.

TOPIC V:

Victims' Rights and Service Needs

“Most Americans know their rights if they’re accused or convicted of crimes. ‘You have the right to remain silent, you have the right to an attorney...’ are common refrains in movies and TV dramas. While these rights are protected under the U.S. Constitution, victims’ rights fall under state law, and fewer people know about them. Here in California, Marsy’s Law guarantees victims the right to protection, information about their cases, compensation, restitution, and to have their voices heard in the criminal justice process. But older victims in particular are unlikely to know their rights, which makes it more likely that they’ll be denied.”

– Lisa Nerenberg, Executive Director, California Elder Justice Coalition

Background

The responsibility for protecting the rights of crime victims is shared by the federal and state governments. Federal programs designed to protect the rights of crime victims are authorized under the Victims of Crime Act (VOCA) and the Violence Against Women Act (VAWA) with funding from the Crime Victims Fund (CVF). The CVF receives monetary penalties from federal criminal convictions, including fees, forfeitures, and special assessments, most of which come from white collar crimes. There are two primary programs for protecting victims’ rights:

- Victim Compensation is provided directly to (or for) individual victims for counseling, medical bills, and other crime-related expenses.
- Victim Assistance funds provide grants to community-based programs.

VOCA programs and funds are administered by the Office for Victims of Crime in the Department of Justice. VAWA programs and funds are administered by the Office of Violence Against Women (DOJ) and the Department of Health and Human Services (DHHS). Both programs allocate funds to states and establish regulations for how they can be used. VOCA and VAWA also provide funding for grants to develop innovations in victim services. Additional federal support for victims comes from U.S. Attorneys’ Offices, the Federal Bureau of Investigation, and others.

California’s Victims’ Bill of Rights Act was enacted in 2008 as Marsy’s Law. It includes victims’ right to protection, to notification about the status of their cases, to be heard at public proceedings, and to be treated with fairness and respect. The Victim Assistance and Victim Compensation programs are administered by separate state entities.

Victim Assistance

Victim Assistance programs are administered by the Governor’s Office of Emergency Services (Cal OES). Cal OES provides grants to counties for Victim/Witness Assistance Centers, most of which are housed in district attorneys’ offices. Advocates at the centers provide victims with information about the criminal justice system and their rights, court accompaniment, help applying for compensation, and other assistance. Cal OES also provides grants to local nonprofit, community-based, and tribal organizations to provide direct services to victims. This is done through a competitive request for proposal (RFP) process. Under VOCA requirements, 10% of funds must be allocated to unserved or underserved victims, which includes victims of elder abuse. Among the services that Cal OES currently funds that benefit older victims are multidisciplinary teams (MDTs), legal assistance, emergency shelter, peer support groups, and counseling. For more on Victim Assistance programs in California, see [Resources](#) on page 71.

Victim Compensation

California’s Victim Compensation Program (CalVCP) is administered by the Victim Compensation and Government Claims Board (VCGCB) in the Government Operations Agency. In addition to VOCA funds, VCGCB receives state restitution funds. Few older victims receive compensation, and victims of non-violent crimes are not eligible. This is despite the fact that VOCA regulations permit states to provide compensation to financial crime victims, and those that do so have reported that victims who receive compensation for mental health and financial counseling are more likely to remain independent and regain the confidence needed to take perpetrators to court.



Progress Toward Implementing *B2B* Recommendations

B2B called for expanding and enhancing services to older victims, improving coordination between the victim advocacy and elder justice networks, and extending services and compensation for victims of financial crimes and exploitation. CEJC activities in these areas in recent years include the following:

- CEJC’s Policy Director and A*TEAM Coordinator Carol Sewell served as the Elder Victim Services Representative on Cal OES’ VOCA Steering Committee, which developed and oversaw implementation of a strategic plan for meeting underserved victims’ needs and set priorities for grant programs.
- Met with Cal OES administrators to apprise them of older victims’ needs and developments in elder justice.
- Assisted Cal OES develop requests for proposals for grants to serve older victims.
- Collaborated with Cal OES and California Department of Social Services (CDSS) personnel to conduct free trainings to local programs receiving grants (“sub-recipients”) for services to older victims.
- Conducted surveys of sub-recipients who serve older victims to assess their ongoing training needs.
- Conducted a webinar on victims’ service needs and Cal OES grant programs.
- Advocated for VCGCB to extend eligibility for Victim Compensation to older victims of financial crimes during the agency’s stakeholder process on reaching underserved victims.
- Partnered with the California Commission on Aging (CCoA) to co-sponsor AB 1754 (Waldron) in 2016 to establish a pilot project in San Diego County to study the costs and benefits of extending Victim Compensation to victims of elder financial abuse. (The bill did not pass.)
- Produced a webinar and blog to raise awareness about victims’ rights and needs, including:
 - [International Financial Crime: How Do We Turn the Tide and Help Older Victims?](#)
 - [Awash in a Sea of Fraud: No Guns, No Action](#)
- Created [Victims’ Rights and Services Toolkit](#).

New Developments



State Level

Progress in responding to older victims' needs stalled in recent years as Cal OES staff turned their attention to drought-caused wildfires and the COVID-19 pandemic. CEJC's collaborative trainings for victim advocates were suspended and the VOCA Steering Committee did not meet.

A Cal OES representative currently serves on the Elder and Disability Justice Coordinating Council (EDJCC), which can potentially lead to greater coordination with other state entities that serve abused elders. The VCGCB is also represented on the EDJCC.



National Level

As noted above, VOCA funds come from the Crime Victims Fund (CVF), which receives monetary penalties associated with federal criminal convictions. As a result, the fund fluctuates based on the cases that the U.S. Department of Justice successfully prosecutes. During the Trump Administration, the funds fell to an historic low due in part to the increased use of deferred prosecution and non-prosecution agreements. Penalties associated with these agreements were redirected into the General Treasury instead of the CVF.

The VOCA Fix Act, which came in response to an effort spearheaded by leading national victim advocacy organizations, reversed the changes described above to restore CVF funding. The Act also reemphasized that victims do not need to be involved in criminal justice proceedings or to report crimes to law enforcement to qualify for Victim Assistance or Compensation.

In 2022, OVC launched an effort to solicit stakeholder input to improve Victim Compensation through changes to the program's guidelines. OVC is interested in knowing how programs can be improved, what victims are falling through the cracks or having difficulty accessing compensation, and exemplary state programs.

In 2022, OVC provided funding for [Transforming America's Response to Older Victims: Developing and Supporting Statewide Elder Justice Coalitions and Training and Technical Assistance Program](#). The grant, which was awarded to Lifespan of Rochester New York, will fund seven state or tribal elder justice coalitions, or groups planning to start coalitions. It will further provide technical assistance and training to state and tribal coalitions.

Challenges and Needs



State Level

Services for older crime victims continue to lag behind those provided to other groups. According to a 2019 report by CAL OES, of the 60 legal assistance programs receiving Cal OES support, only four prioritized older adults. Of 33 programs providing specialized emergency housing, only six provided specialized services for older adults, and of the 77 programs providing advocacy and outreach, only seven target elders.²² Among the most pressing unmet needs for older victims are:

- Shelters that can accommodate older adults' needs, including wraparound services that are culturally and trauma informed.
 - Shelters that can accommodate men and abused couples.
 - Mental health programs, including services for victims of financial crimes and exploitation.
 - Legal assistance, including help with restitution recovery and safeguards against financial abuse.
-

Underserved groups include:

- Financial crime victims, including victims of scams and cyber fraud.
 - Residents of long-term care facilities (LTC).
 - Adults in rural settings and isolated small towns.
 - Tribes.
 - BIPOC elders.
 - Elders with cognitive impairments.
-

Competing demands on Cal OES personnel and resources resulting from their responsibilities to respond to emergencies.

Most states consolidate Victim Assistance and Compensation programs within state criminal justice agencies or offices of attorneys general. California's separation of the two programs and lack of coordination between Cal OES, VCGCB, law enforcement, and providers of protective and legal services for older victims impedes coordination and collaboration in training, service delivery, strategic planning, and oversight.



National Level

- Calls for criminal justice reform and the realignment of resources for crime prevention suggest that new approaches to meeting victims' needs should also be considered.
- While there is growing interest across the country in restorative justice approaches to repairing the harm resulting from elder abuse, little evidence exists to demonstrate the effectiveness of the approach in addressing the harm associated with elder abuse.

Recommendations



State Level

Expand the range of services available to older victims through Victim Assistance and Victim Compensation. Critical needs include:

- Advocacy and resources for victims harmed by:
 - Criminal neglect, fraud, exploitation, and sexual assault in long-term care facilities.
 - Hate or bias crimes.
 - Predatory lending that targets older adults.
- Legal assistance and advocacy to:
 - Mediate with landlords, creditors, and the IRS (to address tax implications resulting from losses or identity theft).
 - Assist victims recover restitution.
 - Refer victims to private attorneys who can help them recover property and assets.
 - Restructure budgets and debt.
 - Access insurance and public assistance.
 - Settle bankruptcy and banking issues.
 - Prevent foreclosure, garnishment, and evictions.
- Behavioral health services, including counseling and peer support groups to help victims overcome the trauma, anxiety, or isolation that prevents many from reporting crimes, participating in the justice system, developing safety plans, and resuming prior activities.
- Assessments of decision-making capacity.
- Shelter and temporary housing that can accommodate residents with functional and cognitive disabilities, couples, and men.
- Crisis intervention, including emergency attendant care, replacements for stolen or destroyed assistive devices, and relocation resulting from crime related evictions or foreclosures.
- Multidisciplinary assessments (by MDTs, including financial abuse specialist teams, rapid response teams, and forensics centers).

Provide cross-disciplinary training and technical assistance to victim advocates and providers of aging and adult protective services, including:

- Training for victim advocates that includes:
 - Working with older victims, including residents in long-term care facilities and victims with functional and cognitive impairments.
 - Supported decision-making and working with surrogate decision-makers.
 - State elder and dependent adult abuse reporting laws and resources.
 - The aging and adult protective services networks and how to access services.
- Training for aging/adult protective service providers that includes:
 - Victim rights.
 - Victim services including Victim Assistance and Victim Compensation, victim impact statements, allocution, and court advocacy and accompaniment.
 - Working with law enforcement, probation, parole, and corrections officials.
- Address barriers to help faced by older victims. This includes:
 - Alerting advocates, policy-makers, and stakeholder about gaps in services and policy. This includes the lack of age, gender, and functionally appropriate victim services.
 - Supporting the development of service and policy innovations, including:
 - Support groups for victims of scams, late life domestic violence, and fraud.
 - Restorative justice programs for elders, including sentencing circles, victim-offender mediation, and family conferencing.
 - Restitution recovery programs.
 - Responding to cultural barriers through the development of culturally specific practices, services, and resource centers.

Develop partnerships with coalitions, councils, and professional associations that represent underserved groups.

Explore the benefits, challenges, and costs of restructuring California’s programs for victims to better align with protective service and consumer rights programs.



National Level

- Amend federal VOCA regulations for Victim Compensation and Assistance to base eligibility on victims' needs and the harm they experience as opposed to the current criteria, which are linked to the types of crime they experience.
- Expand the range of services and interventions offered through the Victim Assistance and Compensation programs to include innovations and promising practices, including restorative justice approaches.
- Support the development of research to explore the needs of underserved older victims, their patterns of help-seeking, and their attitudes and preferences about services and interventions.
- Provide guidance to states to:
 - Create or amend victims rights statutes to better reflect older victims' experiences.
 - Design services that meet older victims' needs.
- Conduct pilot projects to explore the costs and outcomes of new services and benefits, including:
 - Elder shelters.
 - Support groups for victims who are at risk for repeat victimization.
 - Compensation for victims of financial elder abuse.
 - Restitution recovery programs.



RESOURCES

For the most up-to-date contact information and reference links to these as well as additional resources, please visit our Blueprint Resources page on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- [**Addressing the Challenge of Chronic Fraud Victimization: Understanding the drivers of chronic fraud victimization and identifying key intervention strategies**](#) – Report from the FINRA Investor Education Foundation and the AARP Fraud Watch Network that addresses victims who are victimized repeatedly by the same or different perpetrators.
- [**Cal OES Victim Services**](#) – Cal OES programs with greatest relevance for older victims include the following:
 - Elder Abuse (XE) programs provide elder and dependent adult victims with emergency shelter, transportation, respite care (for caregivers to attend court proceedings), counseling, and referral services. XE programs also include multidisciplinary team (MDTs).
 - Innovative Response to Marginalized Victims (KI) programs support innovative services for marginalized victims of crime.
 - Specialized Emergency Housing (KE) programs provide emergency shelter and housing and supportive services for victims with specialize needs, including elders, men, adults with disabilities, LGBTQ+, non-English speaking, culturally or religiously marginalized, and others whose needs may not be met by traditional shelters.
 - Legal Assistance Program (XL) programs provide free holistic civil and criminal legal assistance.
 - Unserved/Underserved Victim Advocacy and Outreach (UV) programs increase access to culturally appropriate victim services for unserved/underserved victims/survivors.
 - The RJ Restorative Justice Training Program supports the development of a training curriculum, toolkit/guide, and technical assistance for prosecutors, criminal justice system personnel, and allied victim service providers.²³
- [**California Victims Resource Center**](#) – Operated by the McGeorge School of Law, the Center operates the 1-800-VICTIMS telephone line and website, which provide information and referrals statewide to victims, their families, victim service providers, and victim advocates. This includes information on civil remedies and crime victims’ rights to compensation, restitution, and to speak at sentencing and parole board hearings.
- [**Equal Justice USA, A Toolkit for Organizations Working with Crime Survivors in Communities of Color and Other Underserved Communities**](#) – Produced by [**Equal Justice USA**](#) to help programs apply for Victims of Crime Act (VOCA) funding.

- [**The National Crime Victim Law Institute \(NCVLI\)**](#) – Law school based program that offers an online [**Victim Law Library**](#) that focuses on crime victims’ rights and provides guidance to states in restitution recovery and other strategies for helping victims.
- [**Victims’ Rights and Services Toolkit**](#) – CEJC-produced webpage that includes background information on state and federal programs and information designed to help communities apply for grants.

PROMISING PRACTICES

For the most up-to-date reference links to these practices, please visit our [Blueprint Resources](#) page on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- [**A Unique Shelter for Older Adults Experiencing Abuse Offers Potential Cost Savings and Other Benefits**](#) – Policy brief by the RAND Corporation that describes a model for shelters developed by the Harry and Jeanette Weinberg Center for Elder Justice.
- [**Adult Advocacy Centers**](#) – Model developed in Ohio for providing services to victims of crime and abuse with disabilities, including forensic exams, assessments, trauma informed mental health services, and training.
- [**Romance Scam Survivor Support Group**](#) – WISE & Healthy Aging of Long Beach operates a weekly telephone support group for survivors of scams. The group focuses on helping members break ties with abusers, deal with the emotional and financial impact of scams, and resume their lives.
- [**SPRiNG Alliance**](#) – Network of elder abuse shelters that share resources and technical assistance, adhere to common standards of excellence, and provide mutual support.
- [**Vermont Center for Crime Victims Services**](#) – Nonprofit agency that pays crime victims restitution “up front” from a fund generated by a 15% surcharge on criminal and traffic court fines. The center assumes the debt and hires professional collections investigators to collect from offenders.

TOPIC VI:

Financial Abuse and Exploitation

“Financial exploitation and fraud crimes against older adults are exploding, particularly crimes committed remotely by criminal enterprises in other countries. Too many victims are losing their homes, being shut out of banking systems, losing their credit, going into bankruptcy, and becoming estranged from their families. Depression is common and sadly, may even lead to early death or suicide. Many of these victims lose hope or a reason to get up in the morning believing that the police won’t even investigate.”

– Debbie Deem, Financial Abuse Specialist Team (FAST) Coordinator, Ventura County, and retired FBI Victim Specialist

Background

Elder financial abuse, exploitation, and fraud cases range from individuals forging elders’ signatures on checks to cryptocurrency scams committed by international crime rings. It includes predatory consumer practices and breaches of fiduciary duty by guardians, financial advisors, and others in positions of trust. Although people of all ages are vulnerable, older adults are often targeted. Those with functional and cognitive impairments who are dependent on others are at heightened risk.

Because elder financial abuse often involves criminal conduct or civil wrongs (or both), common legal remedies are addressed in [Topic III: The Role of the Justice System in Ensuring Elder Justice](#), page 35. This chapter highlights special complexities and considerations. These include the multiplicity of entities that may be involved in investigating and responding, the role of cognitive deficits, and barriers to reporting and accessing help.

California’s Welfare & Institutions Code section 15630 requires those with custody of or who provide care to elders to report financial abuse. On the criminal side, in addition to the generally applicable state statutes relating to financial crimes (e.g., theft, embezzlement, forgery, fraud, and identity theft), California Penal Code sections 368(d-e) specifically prohibit and punish financial crimes committed against older adults. These statutes are enforced by local law enforcement agencies across the state and the Division of Medi-Cal Fraud and Elder Abuse (DMFEA) in the California Attorney General’s Office. DMFEA, which employs prosecutors, law enforcement agents, and auditors, investigates and charges individuals who commit financial crimes against elders. Many defendants are caretakers or others with access to facilities where elders reside. The conduct can range from simply taking money or valuables, to controlling and/or accessing financial accounts, to wrongfully appropriating victims’ public benefits. DMFEA has also investigated and prosecuted acts of investment fraud directed against and targeting older victims.

Some financial crimes fall under federal jurisdiction. These include crimes involving the use of the mail, phone, the internet, interstate transfers, identity theft, and the misappropriation of federal benefits. Among the most common federal crimes are telemarketing fraud, theft of Social Security or Supplemental Security Income (SSI) payments, pension fraud, and crimes involving the use of credit cards. The responsibility for federal crimes may fall to the Federal Trade Commission (FTC), the U.S. Immigration Service, the Secret Service, the Federal Bureau of Investigation (FBI), the Department of Justice (including U.S. Attorneys in the 94 federal districts), and the Social Security Administration. Other federal entities that may become involved include the Securities and Exchange Commission (SEC), which is the federal agency responsible for regulating securities markets and protecting investors, and the Financial Industry Regulatory Authority (FINRA), a private organization that handles the licensing and regulation of investment brokers and dealers.

Victims' decision-making capacity is an important factor in addressing financial elder abuse. An older adults' decision-making capacity may determine if he or she has in fact been victimized. The decision to give a large gift to a new friend is legal and proper as long as the donor "has capacity" to make financial decisions or consent to requests. If the donor lacks capacity, however, and the recipient knows or should have known it, the transaction may be unlawful or criminal. Victims' capacity also determines what remedies are available. Those with capacity can revoke powers of attorney that have been misused or ask banks to place holds on transactions. If they lack capacity, others may need to act for them. Evaluating capacity and its role in financial abuse often requires specialized expertise, and significant progress has been made in developing instruments for doing so in recent years (see [Resources](#) on page 82).

BIPOC elders face additional risks and barriers. For example, studies of scam victims have found that those who live in majority Black and Latino communities are more likely to use payment methods with fewer fraud protections, including cash, cryptocurrency, debit cards, and money orders.²⁴ Systemic racism in housing, banking, and lending have left communities of color more vulnerable to predatory practices. Because African Americans and Latinos are more likely to be denied conventional mortgages than their white counterparts, they are more likely to turn to riskier loans, increasing the risk for foreclosure. This further leads to losses in the transfer of wealth from generation to generation and increases the racial wealth gap.

Acknowledging the complexities of financial abuse, some communities have created financial (or fiduciary) abuse specialist teams (FASTs), which include representatives from financial institutions, federal law enforcement agencies, experts in financial capacity, and others. Enhanced MDTs, or E-MDTs, include experts in cognition and forensics accounting. Rapid response FASTs are designed to mobilize resources quickly to stop crimes in progress or that are imminent when quick action is needed to secure assets.

Progress Toward Implementing B2B Recommendations

Responding to financial crime, abuse, and exploitation is among CEJC’s top priorities. A primary focus has been on ensuring the rights of financial crime victims to services, compensation, and restitution (see [Topic V: Victims’ Rights and Service Needs](#), page 63). Other priorities include raising professionals’ awareness about the problem and solutions; promoting the expansion of legal services with an emphasis on prevention; and holding financial institutions accountable. Key activities and products on elder financial abuse include the following:

- Produced “Toolkits” on [Elder Financial Abuse](#) and [Undue Influence](#), which include descriptions and analyses of the problems, updates on trends and developments, and resources.
- Conducted webinars on innovations and resources for combating financial abuse, including:
 - [International Financial Crimes](#)
 - [What’s New in Undue Influence?](#)
 - [State ID Theft Coalitions](#)
 - [Civil Remedies for Empowering Victims of Elder Financial Exploitation](#)
 - [A Circle Approach to Healing the Harm of Financial Exploitation](#)
- Produced the following *Elder Justice Viewpoint* blog posts:
 - [Unpacking Undue Influence](#)
 - [Awash in a Sea of Fraud: No Guns, No Action](#)
 - [Undue Influence in Law](#)
- CEJC’s A*TEAM has met with representatives from financial institutions to address barriers they face in protecting customers’ assets and collaborating with abuse investigators.
- CEJC Steering Committee member Sil Vossler filed an amicus brief on behalf of CEJC to support a petition for the California Supreme Court to review the appellate court opinion in *Williams v. National Western Life Insurance Company*. The court had found that an insurance company was not liable when one of its agents fraudulently sold annuities to an elder, determining instead that the agent worked for the senior. This was despite the company having benefited from the conduct and overlooking red flags. CEJC argued that the case set a dangerous precedent by giving insurance companies and other financial product companies like mortgage lenders an incentive to ignore the wrongdoing of their agents. The Supreme Court affirmed that the company committed elder financial abuse.

New Developments



State Level

The California Consumer Financial Protection Law (CCFPL), which was passed in 2020, renamed the Department of Business Oversight to become the Department of Financial Protection and Innovation (DFPI). The law also expanded the department’s authority to oversee previously unregulated entities, including financial tech services and debt and credit collection, repair, and relief companies. DFPI also produces educational materials about financial products and services and emerging financial scams that target older adults. Several new divisions, including the Consumer Financial Protection Division, Office of Financial Technology Innovation, Office of the Ombuds, and a Targeted Outreach Team, work with underserved communities, including veterans, older adults, students, and immigrants.

SB 496 (Moorlach), which took effect on January 1, 2020, added broker-dealers and investment advisers to the category of mandated reporters, making them subject to reporting requirements similar to those for banks and credit unions. It also allows broker-dealers to notify “trusted contact persons” about the suspected abuse and temporarily delay disbursements if internal reviews warrant it. It further adds the Department of Business Oversight (DBO) to the list of entities authorized to receive reports of suspected financial abuse of elders and dependent adults.

In 2017, the California legislature amended the Elder Financial Reporting Act to allow employees of banks and financial institutions to refuse to honor powers of attorney if elder financial abuse is suspected and they have reported to APS or local law enforcement. The Elder Financial Reporting Act, which was passed in 2005, requires officers and employees of banks and financial institutions to report elder financial abuse to APS or local law enforcement. Failure to report is subject to a civil penalty of up to \$1,000 (or up to \$5,000 if the failure to report is willful).

Civil attorneys in California are increasingly filing lawsuits against financial institutions for failing to protect customers or following their own internal monitoring controls (e.g., failing to “flag” suspicious transactions like elders wiring large sums to alleged scammers).



National Level

In 2015, President Obama called on the Department of Labor to update rules requiring financial advisors to put the best interests of their clients above their own financial interests. The proposed “fiduciary rule,” which met with opposition from brokers and planners, was delayed by the Trump administration. After a series of lawsuits and reversals, the rule went into effect in 2021 but enforcement was postponed.

The [Senior Safe Act of 2017](#) provides immunity from prosecution for financial institutions and their employees for disclosing suspected elder financial exploitation in some instances.

The Financial Industry Regulatory Authority (FINRA) issued rule changes that took effect in February 2018 that include provisions allowing designated financial firms to place temporary holds on disbursements from the accounts of certain clients when financial exploitation is suspected.

A surge in COVID-related scams during the pandemic generated heightened media interest in elder financial abuse.



Challenges and Needs

Multiple barriers to legal interventions in financial abuse were described in [Topic III: The Role of the Justice System in Ensuring Elder Justice](#), page 35. They include unclear statutory definitions, high standards of proof, difficulty establishing perpetrators' state of mind (e.g., the intent to defraud), and victims' apparent consent to participate in financial transactions that are later found to be fraudulent. Additional barriers to preventing elder financial abuse include the following.

Perpetrators frequently find new opportunities for exploitation, including disasters and emergencies like the COVID-19 pandemic to launch new fraud schemes. By the time remedies are created, perpetrators are likely to have adopted new strategies.

There is a lack of understanding of elder financial abuse, including risk factors for complex forms, civil and criminal remedies, and who has jurisdiction to investigate.

There has been a dramatic increase in financial exploitation and fraud crimes perpetrated by criminal enterprises in other countries and a lack of systematic responses to them by law enforcement, financial institutions, advocates, and protective service programs.

The Community Reinvestment Act (CRA) of 1977 requires banks to address the banking needs of the communities they serve. Some banks meet their CRA requirements through initiatives to prevent elder financial abuse such as programs to help elders access safe, affordable credit and banking products and services. It is unclear, however, what kinds of abuse prevention activities meet the requirements.

Little data exists on the scope and nature of elder financial abuse. Federal crime statistics focus on traditional property crimes like burglary and larceny and do not include crimes like thefts involving powers of attorney. Data is also needed to demonstrate disparities in how underserved groups are impacted by financial crime, their access to services, and unmet needs.

The lack of banks, credit unions, and mortgage lenders in BIPOC, rural, and other underserved communities leaves many borrowers little choice other than high-interest or risky financial services to meet critical needs (e.g., payday lenders).

New revelations about subtle cognitive impairments that affect judgment, risk tolerance, and financial decision-making suggest the need for more precise measures for identifying risk.

Lack of oversight of legal instruments that transfer authority or access (e.g., powers of attorney, trusts, conservatorship) and professional conduct.

Victims and witnesses often fail to report and front-line responders often fail to respond to elder financial abuse for the following reasons:

- Victims are likely to be socially isolated and dependent on others.
 - Victims may not realize that they have been victimized.
 - Victims with cognitive impairments may not be seen as credible by investigators or witnesses.
 - Law enforcement officials often assume that theft using legal documents like trusts or powers of attorney are solely “civil matters”.
 - Financial crimes have traditionally been viewed by some as less serious than violent crimes.
-

Barriers to financial abuse investigations and prosecution include:

- Failure of financial institutions to report abuse despite their mandatory reporting duty.
 - Failure of financial institutions to provide information about the accounts or transactions of alleged victims.
 - Lack of awareness about Probate Code section 2952, which provides for an “exploitation injunction” that allows courts to freeze the assets of likely victims.
 - Refusal by some banks to accept powers of attorney for finances that are not their own.
-

The COVID-19 pandemic heightened the risk for elder financial abuse for the following:

- The pandemic placed financial strains on many elders, their families, and caregivers.
- Elders confined to their homes relied on outsiders to bring food, medications, and other necessities, which heightened the risk of theft.
- Some new, rapidly developed programs for matching homebound elders with volunteer helpers did not adequately screen and oversee volunteers.
- The pandemic triggered new scams (and re-triggered old scams) that exploited victims’ feelings of vulnerability.
- COVID-related law enforcement personnel shortages reduced investigations, which were already insufficient.
- Myriad older adults are being preyed upon by institutions, including lenders, insurance companies, and financial advisors, yet few lawyers or prosecutors are taking these “commercial” cases.

Recommendations



State Level

Provide incentives for attorneys and prosecutors to take cases involving “commercial” crimes that target elders.

Provide education and training to financial institution employees, in collaboration with community partners, on the following issues:

- Detecting, preventing, and reporting elder financial abuse.
 - Financial decision-making capacity.
 - Their role in investigations.
 - State and federal privacy laws.
 - Requirements for accepting powers of attorney.
-

Require financial institutions to track and report on the types and frequency of training they provide to employees as part of the state bank examination audit process.

Promote collaboration and coordination between financial institutions and the elder justice network at the state level.

Incentivize financial institutions to protect elders by publicizing measures they have taken to safeguard customers and situations in which they failed to do so.

Increase and improve oversight of financial service providers.

Improve the enforcement of consumer laws and regulations.

Encourage police departments to accept reports on frauds and refer them to IC3 within 48 hours, as well as to the FTC and the National Elder Fraud Hotline.

Provide wrap-around, long term services to chronic victims and their families, including support groups facilitated by persons trained in behavioral health. Services should be coordinated with APS and local victim advocates.

Explore the need for greater clarity, consistency, and coverage in statutory definitions of elder financial abuse.

Enact policies that provide broad protections as opposed to focusing on specific abusive actions (e.g., fiduciary and suitability standards that require financial advisors, brokers, and realtors to consider customers' financial profiles, objectives, and needs).

Develop best practices for screening and overseeing programs that match volunteers with elders.

Educate elders, families, caregivers, law enforcement, and legal aid attorneys about new and re-emerging scams.

Provide information about gift card scams to businesses, including pharmacies and money transfer agencies, and enlist their help in warning customers.

Fund legal assistance programs at levels that allow them to assist clients in preventing or seeking relief from scams and other forms of financial abuse.

National Level

Strengthen and modernize the Community Reinvestment Act (CRA) to expand access to financial services for underserved communities and groups.

Clarify how financial institutions can fulfill CRA requirements in ways that reduce older customers' risk of abuse (e.g., make interest-free or affordable loans to underserved groups so they are less likely to turn to risky lenders or financial services).

Create a national repository of contact information for corporate security and/or fraud departments for major financial institutions.

Encourage greater collaboration between local and federal investigators, especially in cases involving money mules and "chronic victims" (victims of multiple or repeated frauds).

Develop systems for holding financial institutions accountable for stopping fraud and helping victims (e.g., create a federal ombudsman and appeals processes for decisions or actions by financial institutions regarding transactions made).

RESOURCES

For the most up-to-date contact information and reference links to these as well as additional resources, please visit our [Blueprint Resources page](http://www.elderjusticecal.org/2023-blueprint-resources.html) on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

State Level

- [California Judges Benchguide for Restitution](#) – 2021 update of guide produced by the California Center for Judiciary Education and Research (CJER) of the Administrative Office of the Courts (AOC).
- [Department of Financial Protection and Innovation \(DFPI\)](#) – Regulates financial services, products and professionals; oversees the operations of state-licensed financial institutions; and regulates the offer and sale of securities, franchises and off-exchange commodities.
- [The Victims of Corporate Fraud Compensation Fund \(VCF CF\)](#) – Provides limited restitution to victims of corporate fraud who have not been able to collect on their judgments.

National Level

- [2021 Elder Fraud Report](#) – Report by the FBI on reports to IC3.
- [Baker Fraud Report](#) – Comprehensive report by international fraud expert Steve Baker that focuses on mass marketing fraud, which includes situations in which victims communicate with perpetrators over the phone, through the mail, or on the internet.
- [Blame and Shame in the Context of Financial Fraud](#) – 2022 report from the AARP Fraud Watch Network and the FINRA Investor Education Foundation that focuses on “victim blaming,” which is intended to change how victims of financial fraud are treated.
- [Consumer Financial Protection Bureau \(CFPB\)](#) – U.S. government agency that holds banks, lenders, and other financial companies accountable for treating consumers fairly. CFPB provides a wide range of resources for older Americans that includes:
 - [Recovering from Elder Financial Exploitation: A Framework for Policy and Research](#), a report that describes stages of recovery from elder financial exploitation and addresses why some older adults are more likely to get their money back.
 - [Ask CFPB](#), an online tool to answer consumers’ questions about financial products and services.
 - [Guides For Managing Someone Else’s Money](#), a guide offering advice to caregivers on how to manage finances responsibly.

- [HelpVul](#) – Web-based reporting platform that supports secure document sharing and messaging among financial services, APS, and state securities regulators to streamline the reporting of elder financial abuse and facilitate investigations. The program is a partnership that includes NAPSA, the Securities Industry & Financial Markets Association (SIFMA), and EverSafe.
- [Internet Crime Complaint Center \(IC3\)](#) – FBI program that accepts and tracks complaints from victims of fraud, including romance scams, investment fraud, government impersonation, and tech support fraud.
- [National Guidelines to Implement the 2013 Federal Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults](#) – Produced by the National Adult Protective Services Association and the Philadelphia Corporation for Aging.
- [Older Adult Nest Egg](#) – Tools produced at the Institute of Gerontology at Wayne State University for assessing the financial decision-making capacity of older adults who are vulnerable to financial exploitation. They include:
 - Financial Vulnerability Assessment, a 35-item interview for mental health professionals.
 - Financial Decision Tracker, a 10-item scale for financial services professionals, bank personnel, lawyers, law enforcement officers, and adult protective services employees.
- [Preventing Elder Financial Abuse \(Updated\)](#) – Guide for nursing home and assisted living facility managers and staff to help them prevent and respond to financial exploitation. The guide includes new information on using technology and scenarios and resources developed during the COVID-19 pandemic.
- [Recovery Asset Team \(RAT\)](#) – IC3 program that helps field offices freeze funds for victims who made transfers to domestic accounts under fraudulent pretenses. It forwards transaction details to contacts at recipient banks to notify them about the fraudulent activity and request that they freeze the affected accounts (filed complaints are also added to IC3’s database and reviewed by internet crime analysts for possible follow-up).
- [Senior Abuse Financial Tracking and Accounting Spreadsheet](#) – Developed by the Elder Justice initiative (U.S. Department of Justice), this Excel macro-enabled worksheet was designed to help law enforcement organize financial information and create graphics to aid in investigations. A companion training guide and subpoena template are available.
- [Thinking Ahead Roadmap](#) – Guide produced at the University of Minnesota to help people of all income levels create plans for resisting fraud and handling their finances should they become incapacitated. It includes information geared towards “solo agers” who do not have immediate family members or partners who can help.

PROMISING PRACTICES

For the most up-to-date reference links to these practices, please visit our [Blueprint Resources page on our website at www.elderjusticecal.org/2023-blueprint-resources.html](http://www.elderjusticecal.org/2023-blueprint-resources.html).

- **[Diablo Valley Foundation for the Aging \(DVFA\)](#)** – Under contract to Contra Costa County’s APS program, the foundation provides fiduciary/financial management services to APS clients, which includes help paying bills, serving as clients’ agents under powers of attorney for health care and finances, and advocacy with banks and other financial institutions on behalf of victims of scams and other forms of financial abuse.
- **[Enhanced Multidisciplinary Teams \(E-MDTs\)](#)** – An innovation in elder abuse multidisciplinary teams that brings expertise in forensic accounting and cognitive assessment to enhance MDTs’ ability to address financial abuse and exploitation. The U.S. Department of Justice Office of Victims of Crime supports the development of E-MDTs and ongoing training and technical assistance to the teams.
- **[The San Francisco Veterans Benefits Protection Project \(VBPR\)](#)** – A coalition of organizations formed to fight pension poaching scams targeting older veterans. The group produced a tool to detect scams in their early stages and identify trends (e.g., geographic areas where veterans are being targeted). Members also provide guidance in reporting scams to the appropriate law enforcement and regulatory agencies.

TOPIC VII:

Equity and Inclusion

“How can we purport to serve all older adults when there are many who fear the system and its outcomes more than their own abuse and exploitation?”²⁵

– Vivianne Mbaku, Senior Staff Attorney, Justice in Aging, CEJC Policy Committee co-chair

Background

Elder justice requires fair access to protection, services, benefits, and opportunities for all older Californians. It includes fairness for older adults within their communities as well as equity for communities across the state.

Within communities, older Californians may face discrimination based on age, race, ethnicity, gender identity, legal status, and functional ability. Those with cognitive impairments, residents of long-term care facilities, and those experiencing homelessness or incarceration are also likely to be denied their rights, including the right to protections against elder abuse, neglect, exploitation, and predatory consumer practices. Residents of long-term care facilities that have disproportionately high numbers of BIPOC residents, for example, are more likely to experience abuse and neglect. Marginalized groups are also less likely to have access to services that can reduce risk, stop abuse, and mitigate its harm. This includes legal aid with estate planning and advance directives as well as help to prevent, stop, or mitigate the impact of illegal evictions, predatory lending, and scams.

As noted in [Topic III: The Role of the Justice System in Ensuring Elder Justice](#), page 35, older BIPOC homeowners are at heightened risk for home loss through unlawful foreclosures, which further robs them of home equity, places them at risk for homelessness, and exacerbates the racial wealth gap. A disproportionate share of Black and Latinx older people are housing insecure as the result of discrimination in employment, wages, housing, as well as redlining, the segregation of neighborhoods, and restrictions on mortgage lending. Older gay, lesbian, bisexual, and transgender couples also report that they face discrimination in housing.

Achieving equity requires that agencies, courts, and other community institutions recognize the barriers that underserved groups face and engage in proactive outreach to reach them. It further requires that they adopt practices and approaches that reflect older consumers' lived experiences, values, and preferences.

Ensuring elder justice statewide requires that older Californians have equitable access to protective and supportive services regardless of where they live. This entails identifying and combating disparities in resources between rural, urban, suburban, and tribal communities. It further requires understanding the historical, political, social, and economic barriers that marginalized communities face and how the consequences of those barriers can be mitigated.

COVID-19 exposed glaring disparities, not only in the rates of severe illness and death among BIPOC older Californians, but in the quality of long-term care they received and in their access to health and protective services. Caregivers in LTC facilities, who are disproportionately BIPOC and immigrants, were also more likely to contract the disease and to experience economic and social stresses. Under-resourced communities fared worse, and some were unable to take advantage of COVID relief funding because of workforce shortages. Improving equity for older Californians, therefore, requires protecting the rights and wellbeing of their caregivers as well.

Progress Toward Implementing *B2B* Recommendations

- In 2020, CEJC began exploring geospatial mapping to identify disparities across California in long-term care facility residents' experiences with COVID-19 and their access to protective services. This was done in partnership with Community Partners, the Los Angeles mayor's office, and California State University, Los Angeles (CSULA) as part of an initiative to help nonprofit organizations use data to increase their impact. CEJC worked with two CSULA economics classes and two student interns to identify disparities in how low income and racially diverse communities fared during the pandemic.
- CEJC has been a national leader in exploring the use of restorative justice in elder abuse prevention. Restorative justice addresses the harms experienced by victims, their allies, and their communities as the result of crime and abuse. It further addresses systemic harms caused by public policies and institutions, including the disparate treatment of BIPOC Americans in the criminal justice system. As noted earlier, CEJC hosted a series of webinars on the topic, two of which focused on restorative approaches that tribal nations are using to address elder abuse. CEJC also produced a toolkit and participated in two national and one international symposia on adopting restorative justice approaches to elder abuse prevention.
- CEJC updated its Principles of Elder Justice to highlight and elaborate on its commitment to equity and inclusion. It produced a flyer and video of the principles.²⁶

“We call ourselves to account for the ways in which this movement, and particularly the white leadership within this movement, has repeatedly failed Black, Indigenous, and people of color (BIPOC) survivors, leaders, organizations, and movements.”

– Moment of Truth Statement signed by 46 state sexual assault and domestic violence coalitions²⁷

New Developments



State Level

Equity and inclusion were central themes in the California Master Plan for Aging (MPA). A special Equity Workgroup was appointed, which developed a self-assessment tool for organizations to use to measure their progress in reducing disparities.²⁸

California’s Elder and Disability Justice Coordinating Council, which was established under the MPA, developed its own equity principles and self-assessment tool.

The California Department on Aging created three new positions/departments that focus on the needs of underserved groups: Chief Equity Officer, the Office of the Patient Representative, and the Digital Divide Manager.



National Level

At the first meeting of the Elder Justice Coordinating Council (EJCC) under the Biden administration, council members reported on their plans for reaching older adults who face barriers to protective and remediation services — including BIPOC and LGBTQ+ elders and those living in rural communities.

In response to calls for criminal justice reform, national advocacy groups have adopted statements and policies that acknowledge the impact of institutional and structural racism on their clients and programs. A striking example is the Moment of Truth: Statement of Commitment to Black Lives, which was signed by 46 state sexual assault and domestic violence coalitions. In it, the coalition leaders call themselves to account for past failings and commit to promoting community-based policing and alternatives to incarceration.

Challenges and Needs

Lack of data on barriers to justice experienced by older Californians who are BIPOC, non-affluent, cognitively impaired, immigrants, LGBTQ+, residents of long-term care facilities, and those who are experiencing homelessness and incarceration (including those who are reentering their communities).

Concerns that mandatory elder abuse reporting and an overreliance on prosecution have a chilling effect on reporting among some groups have prompted calls for victim-driven, non-carceral alternatives.

Inadequate supply of protective and preventative services that are financially, geographically, physically, linguistically, and culturally accessible, which stems from:

- Lack of research and practice experience on alternative approaches, including their potential applications, costs, benefits, outcomes, and challenges.
- Confidentiality protections that prevent the collection data that could shed light on the special needs of underserved groups (e.g., immigration status, gender identity).
- Firmly entrenched policies and practices that discourage innovation.



Abuse is underreported in some communities for a variety of reasons that include:

- Distrust or negative perceptions of institutions, including police, courts, and social services.
- Many tribal nations lack elder justice codes and reporting systems.
- Families' economic and physical survival may depend on those who cause harm.
- Fear of negative outcomes, including:
 - Deportation of victims or their abusers, a fear expressed by those who are and are not documented.
 - Being “outed” or exposed, which in the past, could have exposed LGBTQ+ individuals to jail, loss of employment, shock treatment, and humiliation.
 - Retaliation against victims and/or their families and communities.
 - Belief that reporting will contribute to negative or racist stereotypes, ostracism, or dishonor to individuals or communities.
- Cultural attitudes or practices. For example:
 - Communities may have their own systems for handling problems, including tribal, community, or religious councils.
 - Some faith-based communities accept abuse as fate, which cannot or should not be altered.
 - Abuse may be seen as a community, rather than an individual, problem that calls for a community response.
 - Attitudes about “filial piety,” the belief that adult children are responsible for the care and support of their older family members, may contribute to shame and discourage families from turning to outsiders for help.
 - Punishment and violence against family members may not constitute unlawful conduct in immigrants' countries of origin.

The population of older adults in rural areas is larger and growing faster than in non-rural areas. Some communities face special challenges that include:

- Low tax bases due to poor economic conditions and large state and federal land holdings account for inadequate medical, health, aging, legal, and protective services, forcing some counties to rely on donations to fund services.
- A scarcity of workers and nonprofit agencies, particularly in areas where the cost of living is high.
- Biases against public services in communities with high numbers of conservative voters and leaders.

Lack of training for aging and protective service providers to help them understand the systemic and cultural barriers that marginalized clients face in seeking help, their risk factors and lived experiences, their own implicit biases, and how to mitigate these barriers.

Recommendations

Build knowledge about disparities in older Californians' access to protective and supportive services, benefits, resources, and opportunities through the following:

- Design systems to track the utilization of supportive and protective services, Victim Assistance and Victim Compensation, legal aid, and other elder justice resources by members of underserved groups and communities.
 - Conduct research on elder abuse and risk factors for abuse among older Californians who are BIPOC, non-affluent, cognitively impaired, immigrants, nursing home residents, LGBTQ+, experiencing homelessness, and incarcerated or recently released.
-

Raise awareness among policy-makers, professionals, and the public about disparities in access to elder justice services and protections.

Develop training and education on parity and access, implicit bias, trauma informed practice, cultural humility, and the impact of social determinants of health and wellbeing.



Improve access to services and protections through:

- Programs that employ informal networks and trusted advocates, including:
 - Senior peer supports.
 - Senior outreach workers.
 - Community health workers, health navigators, “promotores,” and others who are knowledgeable about the communities they serve and have received training in advocacy, motivational interviewing, cultural brokering, and community engagement.
 - Advocates or counselors trained in conflict resolution and de-escalation techniques.
- Programs that support extended and kinship families and that demonstrate respect for families’ relationships, patterns of mutual aid, and attitudes about revealing family conflicts or problems to outsiders.
- Explore the use of restorative justice approaches to elder justice through the following:
 - Design pilot projects to reveal programs’ impact and costs.
 - Provide opportunities for professional exchange among elder justice and restorative justice advocates to share experiences, insights, and resources.
 - Provide cross-disciplinary training to elder justice advocates and restorative justice practitioners to help them understand each other’s approaches and work collaboratively.
- Conduct culturally specific public awareness campaigns to alert vulnerable communities about elder abuse and exploitation that affect their members and raise awareness about community resources (this can be done in collaboration with the ethnic media and religious, cultural, and civic organizations).

Request a Legislative Analyst’s Office (LAO) report or hearings on the needs of small county/ rural communities.

Explore strategies that allow for greater flexibility in service delivery for small, under-resourced communities. For example:

- Allow for multiple counties to consolidate services and resources.
- Allow for Medicaid reciprocity across state lines when services in other states are more accessible to consumers.

RESOURCES

For the most up-to-date contact information and reference links to these as well as additional resources, please visit our [Blueprint Resources page](http://www.elderjusticecal.org/2023-blueprint-resources.html) on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- [California’s Attorney Deserts: Access to Justice Implications of the Rural Lawyer Shortage](#) – July 2019. Policy brief by the California Commission on Access to Justice on “attorney deserts,” places where few attorneys live and work, resulting in unmet legal needs.
- [California Consortium for Urban Indian Health](#) – Statewide organization serving urban Indian communities that provides culturally centered advocacy, expertise, and resources.
- [Diverse Elders Coalition](#) – Coalition of six national organizations representing American Indian and Alaska Native, Asian American, Pacific Islander, Native Hawaiian, Black and African American, Hispanic and Latinx, and LGBT elders that advocates to improve aging in their communities through policy changes and programmatic reform.
- [Equal Justice USA, A Toolkit for Organizations Working with Crime Survivors in Communities of Color and Other Underserved Communities](#) – Produced by [Equal Justice USA](#) to help programs apply for Victims of Crime Act (VOCA) funding.
- [Increasing Access to Healing Services and Just Outcomes for Older African American Crime Survivors Toolkit](#) – Produced by the National Clearinghouse on Abuse in Later Life (NCALL).
- [Legal Aid Recruitment, Retention, and Diversity: A Report to the State Bar of California \(2022\)](#) – Report produced by the California Access to Justice Commission to address the need for creating and maintaining a diverse workforce of legal aid lawyers.
- [Mistreatment of African American Elders](#) – “Research to Practice Brief” produced by the National Center on Elder Abuse.
- [National Caucus and Center on Black Aging \(NCBA\)](#) – National organization devoted to making certain that legislators, policymakers, philanthropists, advocacy groups, service organizations, thought leaders, and the public-at-large include minority and low income seniors in their programs, policies, lawmaking, and giving.
 - [Black and Aging in America 2021](#) – Report by NCBA that presents summaries, statistics, and perspective on the status of Older African Americans.
- [National Indigenous Elder Justice Initiative \(NIEJI\)](#) – Funded by the Administration for Community Living and located at the Center for Rural Health at the University of North Dakota School of Medicine & Health Sciences, NIEJI provides culturally appropriate

information and community education materials on elder abuse, neglect, and exploitation in Indian Country, including elder abuse codes from tribes across the country, state and tribal hotlines, and training modules.

- [New Frontiers for Funding: An Introduction to Grantmaking in Rural Aging](#) – Grantmakers in Aging initiative to connect and support rural aging stakeholders, share knowledge, and expand resources and services for older adults in rural areas.
- [Northern California Intertribal Court System](#) – Provides a forum for hearing and resolving community disputes, ensuring public safety, supporting community justice, and utilizing culturally appropriate services.
- [Research & Training Center on Disability in Rural Communities](#) – University of Montana program that offers technical assistance to researchers, organizations, service providers, and individuals.
- [Resource Centers for Minority Aging Research \(RCMAR\)](#) – Program within the Division of Behavioral and Social Research of the National Institute on Aging.
- [Rural and Tribal Elder Justice Resource Guide](#) – Produced by DOJ’s Elder Justice Initiative, the guide contains materials from the Rural and Tribal Elder Justice Summit that took place on November 14-15, 2018.
- [Rural Health Information Hub](#) – National clearing house on rural health issues funded by the Federal Office of Rural Health Policy highlights projects serving people with disabilities and older adults ranging from fitness to oral health to estate planning.
- [Strong Hearted Native Women’s Coalition](#) – Provides technical assistance, training, and supportive services to enhance the capacity of survivors, advocates, victim organizations, and victim services providers to end violence against American Indian and Alaskan Native people in Southern California.
- [The Role of Elder Justice in Our National Racial Justice Reckoning \(2021\)](#) – Article in NextAvenue.org by Justice in Aging Senior Staff Attorney Vivianne Mbaku.
- [Tribal Resource Tool](#) – Searchable directory of services available for AI/AN survivors of crime and abuse in Indian Country operated by the Inter-Tribal Council of California.
- [U.S. Department of Justice Rural and Tribal Resources](#) – Website operated by the U.S. Department of Justice that includes a guide of federal resources by topic area.
- [U.S. Department of Veterans Affairs Office of Rural Health](#) – Office within the Department that provides resources for veterans and their caregivers.

PROMISING PRACTICES

For the most up-to-date reference links to these practices, please visit our Blueprint Resources page on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- **Adult Advocacy Centers** – Model developed in Ohio for providing services to victims of crime and abuse with disabilities. Services provided by the centers include forensic exams, assessments, trauma informed mental health services, and training. Plans are in progress to develop permanent centers, mobile units, and multidisciplinary teams that include law enforcement officials, prosecutors, medical staff, victim advocates, mental health specialists, forensic interviewers, and representatives from the state’s disability-specific agencies.
- **Community Ambassador Program for Seniors (CAPS)** – Program that uses volunteer ambassadors as a bridge between the formal social services network and faith and cultural communities in Fremont, California. Ambassadors help elders locate services and programs in their own language, that reflect their cultural norms, and are located where they live, worship, and socialize.
- **CORE (Community Based Options to Respond to Elder Abuse)** – Program that builds community among older residents in three apartment buildings in Syracuse, New York. Residents are invited to participate in peacemaking circles or receive information, legal assistance, and case management. The project is a collaboration that includes the Center for Court Innovation, Christopher Community, and the Syracuse University College of Law.
- **New York’s Elder Justice summit** – Lifespan of Greater Rochester (New York) hosted a series of events to train administrators and Enhanced-MDT coordinators in diversity, equity, and inclusion principles; ensure that case reviews are conducted through a racial equity lens; and to bring more cases from minority communities.
- **Privilege Protections for Restorative Justice Practitioners** – Illinois SB 0064 (2021-2022) amends the state’s Code of Civil Procedure to provide that anything said or done during, in preparation for, or in follow up to restorative justice practices is privileged and cannot be used in civil, criminal, juvenile, or administrative proceedings.

TOPIC VIII:

The Federal Government's Role in Elder Justice

“We’re at a critical crossroads with federal elder justice policy. The Elder Justice Act received historic funding in 2021 and 2022 from pandemic emergency funds, but that’s over and the Senate failed to act on the Elder Justice Act reauthorization, which means that the process has to start all over again in 2023. Two things are clear—elder justice legislation has to be bipartisan, and we need to strengthen the network of state elder justice coalitions and grass roots advocacy groups to deliver the elder justice message outside of DC. In the end, elder justice is a state and local issue.”

– Bob Blancato, National Coordinator of the Elder Justice Coalition

Background

The rights of older Californians are significantly affected by federal as well as state policies and developments. Federal laws and regulations protect elders’ rights, and federal agencies provide funding and direction to state and local services. As home to almost six million adults over the age of 65,²⁹ California is a key stakeholder in federal policy and programs and can potentially play a significant role in conveying states’ needs to federal policy-makers and advocacy groups.

Two key federal statutes that address elder rights and elder justice are the Older Americans Act (OAA) and the Elder Justice Act (EJA). The OAA, which was passed in 1965, established a national infrastructure for aging services that includes the federal Administration on Aging (AOA) within the Administration for Community Living (ACL), state units on aging (SUA), and area agencies on aging (AAAs). The OAA begins with a Declaration of Objectives, which are sometimes referred to as the Bill of Rights for older Americans because they highlight such foundational rights as the right to an income in retirement, housing, mental health services, institutional and community-based care, civic engagement opportunities, and protections against discrimination and abuse.

OAA amendments and reauthorizations strengthened these rights and protections. A 1992 amendment added Title VII, “Vulnerable Elder Rights Activities,” which consolidated the Long-Term Care Ombudsman Program (LTCOP); programs addressing elder abuse, neglect, and exploitation; legal aid programs; and assistance with benefits outreach, counseling, and assistance. A 2016 reauthorization strengthened protections for vulnerable elders by enhancing the LTCOP and elder abuse prevention programs and promoting fall prevention and chronic disease self-management programs. The 2020 reauthorization strengthened programs for caregivers and encouraged aging programs to increase their business acumen.

The EJA was passed in 2010 as part of the Patient Protection and Affordable Care Act (ACA), or “Obamacare”. Although it did not appropriate funds for services, it paved the way for a national structure for elder justice that includes an Elder Justice Coordinating Council to oversee the EJA’s implementation, develop recommendations for Congress and federal agencies, and facilitate collaboration among federal entities that have a role in elder justice. Although the act expired in 2014, multiple efforts to reauthorize it have failed. Proposed reauthorizations have varied widely in funding levels and the programs and services that were included. The proposed 2021 Elder Justice Reauthorization and Modernization Act, for example, which would have provided \$4 billion for new and existing elder justice programs, including APS, LTCOP, medical-legal partnerships, and programs to prevent social isolation and build the long-term care workforce, did not pass.

Federal entities that play an important role in elder justice by providing support for research grants, training, technical assistance, resource centers, and the development of innovations include:

- The Administration for Community Living (ACL) and the Centers for Medicare and Medicaid Services (CMS) within the Department of Health and Human Services (DHHS).
- The Office for Victims of Crime (OVC) and the Office on Violence Against Women (OVW) within the Department of Justice.

Recent vacillations in federal policy and regulations related to elder justice have led to confusion and a lack of clarity. For example, regulations aimed at preventing elder abuse in long-term care facilities that were enacted during the Obama administration were postponed during the Trump administration and resumed under the Biden administration. The same was true for a CMS prohibition against the use of binding arbitration agreements by nursing homes, a practice that deprives residents of the right to seek legal recourse for inadequate care or abuse (see [Topic II: Ensuring Justice for Residents of Long-Term Care Facilities](#), page 21).

The COVID-19 pandemic prompted the federal government to increase or make new investments in APS and LTCOP. ACL further created a pipeline for distributing the new funds and required states to submit strategic plans for how they would be used (see [Topic I: Adult Protective Services, page 11](#)). It is not known, however, what level of financial or programmatic support will be provided in the future.

Although states are significantly affected by federal policies and programs, state elder justice advocates have historically had few opportunities to provide input into their development and implementation. California’s participation has also been limited by the lack of strong state-level leadership for elder justice and the state’s decentralized, county-focused service delivery system, which has been a barrier to collecting aggregate data about key programs and systems. The situation improved with the creation of a state APS liaison (CEJC spearheaded efforts to create the position), which enabled the state to access federal funds to participate in a national data collection initiative (NAMRS) and to secure federal funding to explore innovations in training and practice. The California Department of Social Services recently created an APS

unit that operates under the direction of the liaison, which will help the state expand on those efforts. The California Elder and Disability Justice Coordinating Council (EDJCC), which was created as part of California’s Master Plan for Aging (MPA), can potentially provide another new channel of communication and coordination with federal policy-makers and agencies.

National developments, challenges, accomplishments, and recommendations appear throughout this document under Topics I-VII. The following sections highlight key developments, challenges, and recommendations, identify cross-cutting themes, and introduce additional topics pertaining to the federal government’s role in elder justice.

Progress Toward Implementing *B2B* Recommendations

Since the release of *B2B* in 2016, CEJC has actively worked to strengthen communication, coordination, and collaboration with federal advocacy groups and policy-makers. It has further promoted exchange among state elder justice programs and advocacy groups. Examples include:

- CEJC’s National Elder Justice Advocates Academy was created in 2018 to promote the sharing of information, insights, contacts, sample materials, and best practices among advocates across the U.S. and to provide them with training and technical assistance. This is accomplished through [webinars](#), the [Elder Justice Viewpoints blog](#), [technical assistance toolkits](#), presentations at national forums, and social media. The Academy also served as the catalyst for the National Network of State Elder Justice Coalitions (see below).
- In 2018, CEJC hosted a panel of representatives from state elder justice coalitions during the annual American Society on Aging conference. Following the event, the panelists launched the [National Network of State Elder Justice Coalitions \(NNSEJC\)](#), which currently has a membership of 15 state coalitions that meet quarterly to discuss issues of common concern. NNSEJC has gained prominence as a voice for state elder justice coalitions and has been featured in national publications and forums. It also has a representative on the leadership group of the national Elder Justice Coalition. NNSEJC recently collaborated with Lifespan of Rochester, New York, to launch the National Center for State and Tribal Elder Justice Coalitions.
- CEJC’s A*TEAM has identified and adapted promising practices and resources produced by or for states across the U.S. An example is customizing the [National Guidelines to Implement the 2013 Federal Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults for California](#). The guidelines were designed to assist financial institutions provide evidence in elder financial abuse investigations.

New Developments



State Level

Creation of the California Elder and Disability Justice Coordinating Council (EDJCC). CEJC successfully advocated for the creation of the EDJCC as a component of the Master Plan for Aging (MPA), and CEJC leaders actively participate in both initiatives. Although both initiatives focus on California, they provide opportunities for conveying California’s needs and priorities to federal authorities. For example, the MPA calls on CMS to expand data transparency on the quality, staffing, and financing of nursing homes. It also calls on CMS to develop a “small house” nursing home pilot project and to adopt a payment approach based on the quality of care provided, equity, and health outcomes.





National Level

The Elder Abuse Prevention and Prosecution Act of 2017 established requirements for the Department of Justice (DOJ) to:

- Designate Elder Justice Coordinators in federal judicial districts and at DOJ.
 - Implement comprehensive training for FBI agents.
 - Establish working groups to provide policy advice.
-

Federal agencies have made new or renewed commitments to elder justice. Noteworthy examples include:

- DOJ has established the following elder justice priorities:
 - Prosecuting predatory guardians.
 - Bringing criminal and civil actions in transnational fraud schemes.
 - Establishing minimum staffing requirements for nursing homes.
 - Pursuing nursing homes that fail to provide Medicare and Medicaid beneficiaries with essential nursing services and protections.
 - ACL’s focus in recent years includes:
 - Nursing home reform.
 - Guardianship reform.
 - Providing direction and funding to APS.
 - Social isolation and loneliness and their impact on older American’s health, well-being, and risk for elder abuse, neglect, self-neglect, and exploitation.
 - The impact of the opioid epidemic on older Americans.
 - AmeriCorps Seniors prioritized elder justice in a new demonstration program.
 - The U.S. Postal Inspection Service (USPS) has begun providing “tele-victim services” to people targeted by fraud and scams.
-

Multiple federal agencies have pledged to prioritize equity, which includes combating barriers to protective and supportive services by BIPOC, rural, LGBTQ+, and other underserved groups.

Challenges and Needs



State Level

California's response to elder abuse differs from those of other states in significant ways, the benefits and consequences of which have not been explored. For example:

- California is one of just a few states in which LTCOP are charged to investigate complaints of nursing home abuse under the state's mandatory reporting law. This appears to conflict with a 2015 rule issued by ACL that prohibits LTCOP from serving as "first finders of fact" in investigations. Although the state reporting law was amended to require reports to be made to both LTCOP *and* law enforcement, little guidance or training is available to define the roles and coordinate the efforts of the two groups.
 - Many states' reporting laws only mandate the reporting of abuse against "vulnerable," older people. Vulnerable typically refers to people who are unable to protect themselves from abuse as a result of mental or physical conditions. In California, abuse against all elders must be reported although the response to abuse against non-vulnerable elders varies across the state.
-

Despite the progress noted above, California and other states continue to lack opportunities to share their experiences and needs with federal policy-makers and advocates.

Federal agencies have developed myriad elder justice resources, some of which are generic in nature and need to be adapted for California. Examples include materials developed by DOJ's Multidisciplinary Team Technical Assistance Center (MDT TAC) and the National Guidelines to Implement the 2013 Federal Interagency Guidance on Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults. No state entity has been authorized to customize or adapt materials for California. CEJC's A*TEAM has, however, customized the National Guidelines for the state.



Little is known about the effectiveness, efficiency, and fairness of elder justice service delivery systems and approaches. Lacking evidence of outcomes, federal policy-makers have little incentive to provide funding to states for elder justice activities. Specific informational needs include:

- The outcomes, costs, and alternative costs (how funds could be used for alternative approaches) of mandatory reporting, prosecution, guardianship, and other programs and policies.
 - The effectiveness and costs of preventative measures and services to reduce the risk of elder abuse and the violation of elders' rights (e.g., daily money management, advance directives, comprehensive estate planning, support to caregivers, conflict resolution, supported decision-making, and restorative justice).
-

Federal regulations and guidelines for state and local elder justice programs do not reflect the totality of existing or emergent needs. For example:

- OAA legal assistance providers are prohibited from providing legal services to landlords in tenant/landlord disputes, even when elderly landlords are abused or exploited by tenants. Legal aid programs are also discouraged from leading class action or impact lawsuits, which may be needed to ensure justice when multiple individuals are victimized (e.g., in cases involving abuse by financial institutions or long-term care facilities).
 - Many older victims, including victims of financial abuse and exploitation, could benefit from victim compensation to cover mental health care, emergency services, and advocacy with creditors or benefits programs. States lack direction in how compensation can be used to meet needs like these.
-

Since the enactment of the EJA, key EJA programs have remained unfunded or underfunded. Key provisions of the act, including the creation of a stakeholder advisory board, have not been implemented. The failure to reauthorize the act leaves it politically vulnerable.

Federal employees who are likely to observe mistreatment are not required or directed to report to state and local entities for investigations and follow up victim services. This includes employees of the FBI, USPS, and SSA.

As noted in [Topic II: Ensuring Justice for Residents of Long-Term Care Facilities \(RCFEs\), page 28](#), there are no federal regulations that cover RCFEs. The rapid growth of for-profit RCFEs has been accompanied by rising rates of abuse and neglect. Because many facilities are operated by national chains, more stringent federal oversight is needed to ensure accountability.

Recommendations



State Level

Include representatives from federal agencies and programs on the EDJCC and local MDTs. Key agencies include U.S. Attorneys' elder justice coordinators and regional representatives from other federal agencies that play key roles in elder justice and abuse prevention, including the FBI, SSA, and ACL.

Assign a state elder justice coordinator to provide liaison between the EDJCC and federal agencies and policy makers.

- Customize resources developed by federal agencies and national organizations, including model laws and protocols, for California.
- Provide input to federal policy-makers and advocates about California's needs and encourage other states to do so.
- Alert California stakeholders about federal resources and opportunities.



National Level

Provide information and guidance to state coalitions, councils, advocates, and other stakeholders about federal statutes, regulations, and developments that affect their work. Specific areas of need include guidance about federal privacy laws pertaining to the sharing of information by MDTs and information that can be disclosed by financial institutions during financial abuse investigations.

Provide technical assistance to states, including guidance in developing coalitions and coordinating councils, model statutes, and sample materials.

Raise awareness among federal policy-makers and advocates about the important role that state agencies, councils, and coalitions play in elder justice and their need for resources to support their efforts. This can be accomplished through the following:

- Acknowledge and define state elder justice coalitions and coordinating councils in the EJA.
- Provide opportunities for state coalitions and coordinating councils to inform federal policymakers about states' needs (e.g., include representatives from state elder justice coordinating councils or coalitions on the Elder Justice Coordinating Council).

Support the testing and promulgation of statutory, regulatory, and program innovations, including:

- Model statutes, guidelines, and protocols for:
 - Abuse reporting and response.
 - Guardianship and alternative options.
 - Undue influence.
 - Age discrimination in employment, health care, housing, and other settings and circumstances.
 - Supported decision-making.
 - Whistleblower protections for employees of nursing homes, financial institutions, and others who are at risk for retaliation if they report abuse.
 - Coordinating abuse investigations among LTCOP, APS, and law enforcement at the local, state, and federal levels.
- Model programs, including:
 - Restitution recovery programs.
 - Legal/medical partnerships.
 - Restorative justice programs and approaches that:
 - Build community in senior centers, senior housing, long-term care facilities, and shelters.
 - Reduce the risk of elder abuse.
 - Mitigate harm resulting from abuse.
 - Divert crime offenders into community-based programs that address conflict, behavioral health problems and substance abuse, and the need for caregiver training and accountability.
 - Reduce the need for guardianship.
 - Specialized multidisciplinary teams, including teams that focus on systemic barriers, complex forms of financial abuse and exploitation, abuse in long-term care facilities, and underserved rural and tribal communities.



Steps that federal agencies can take to enhance states' efforts to protect elders' rights, reduce abuse, and achieve greater equity include the following.

- The Administration for Community Living (ACL) can:
 - Host forums to discuss the benefits and challenges of integrating services for older adults with services for adults with disabilities.
 - Explore ways that NAMRS can be applied or adapted to identify underserved communities and document disparities.
 - Provide direction and resources to SUAs and AAAs for raising awareness about elder rights and abuse prevention.
 - Provide funding and technical assistance to OAA funded programs to train their staff and volunteers in elder rights and abuse prevention.
 - Provide direction and guidance to OAA-funded senior legal assistance providers and state legal services developers to help them build their capacity to protect elders' rights through:
 - Collaborations with the private bar on impact litigation (lawsuits that impact the lives of many people and/or are intended to change laws or policies).
 - The development of medical/legal partnerships.
 - Extend the range of services that legal services programs can provide to include:
 - Mediation, family conferencing, and restorative justice approaches.
 - Assistance with restitution recovery.
 - Estate planning and advance directives for non-affluent elders.
 - Public education about elders' rights, including the right to care in the most integrated settings possible, consumer rights pertaining to long-term care, victims' rights, and protections against discrimination (e.g., in employment, health care, and housing).
- Centers for Medicare and Medicaid (CMS) can:
 - Implement relevant measures contained in the administration's comprehensive agenda for nursing home reform.
 - Regulate residential care facilities for the elderly (RCFEs).
 - Provide education to the public, professionals, advocates, and other stakeholders about the rights of nursing home and RCFE residents with respect to binding arbitration agreements, the right to care in the most integrated settings possible, and mandated safety measures.
- Centers for Disease Control and Prevention (CDC) can provide guidance to states in developing comprehensive public health approaches to elder abuse that include:
 - Epidemiological studies to identify risk factors, including social determinants.
 - Screening to identify elders at risk for abuse, neglect, self-neglect, homelessness dementia, and isolation.
 - Using community health workers to achieve health equity among older Americans, advocate on their behalf, and reduce risks.
 - Public education about risk factors and how to lower risk.

- Harm reduction strategies to repair relationships, reduce isolation, and address the financial and emotional impact of abuse and exploitation.
 - Office for Victims of Crime (VOCA) can amend victim compensation and assistance regulations to base eligibility for help on victims' needs and the harm they experience as opposed to the type of crime or abuse they experience.
-

Direct states to expand victim assistance and compensation to older victims, including victims of financial crimes.

Help states and local communities develop strategic plans for victim services.

Provide guidance to state VOCA administrators and service providers about victim directed and restorative justice approaches to ensuring accountability and mitigating harm (e.g., mediation, sentencing circles).

Conduct research to:

- Explore under-researched forms of abuse, including abuse by guardians, labor and benefits trafficking, bullying and harassment, and sexual assault.
 - Determine the prevalence of abuse and neglect for older adults who have previously been excluded from, or underrepresented in, national research studies (e.g., elders with dementias, those who experience barriers to communication, and those with limited English proficiency).
 - Identify disproportionate impacts of policies and practices on BIPOC, LGBTQ+, immigrant, and other underserved groups.
 - Demonstrate the costs, benefits, and impacts of state elder justice and abuse prevention response systems and programs, including:
 - The impact and efficacy of various approaches to elder abuse reporting, including studies that compare mandatory and non-mandatory reporting and that explore differences in eligibility, substantiation, services offered and received, and case outcomes.
 - Disparities in access to and utilization of protective services, including APS, law enforcement, legal assistance and other services by race, gender and gender identity, immigration status, and other victim characteristics.
 - Disparities in services offered and case outcomes.
 - The scope and effectiveness of guardianships, including the problems prompting requests, the intended goals, alternatives tried prior to petitioning, courts' reasons for granting or denying requests, outcomes and alternatives.
 - Victims' experiences with and attitudes toward abuse reporting, APS, guardianship, police and court interventions, and other approaches to elder justice.
-

Enhance elder justice legislation and regulation, including:

- Reauthorize the EJA with the following enhancements and priorities:
 - Expand the definition of elder justice to reflect the full scope and interdisciplinary nature of the field.
 - Achieve greater equity in access to protective, legal, and supportive services.
 - Address critical gaps, including the regulation of residential care facilities for the elderly (RCFEs).
 - Balance criminal justice responses to elder abuse with:
 - Family-based social, health, and mental health interventions.
 - Preventative approaches, including daily money management, advance directives, estate planning, and programs that reduce social isolation.
 - Interventions that repair or mitigate harm, including family/caregiver mediation and restorative justice.
- Mandate federal employees who are likely to encounter abuse to report to local or state agencies in accordance with their state elder abuse reporting laws. Examples include postal workers, federal law enforcement, victim specialists, and SSA employees.
- Encourage the U.S. to participate in efforts to advance a UN Convention on the Rights of Older Persons.
- Strengthen and modernize the Community Reinvestment Act (CRA) to expand access to financial services for underserved communities and groups and clarify how financial institutions can fulfill CRA requirements for abuse prevention (e.g., make interest free or affordable loans to underserved groups).
- Create a national repository of contact information for corporate security and/or fraud departments for major financial institutions.



RESOURCES

For the most up-to-date contact information and reference links to these as well as additional resources, please visit our [Blueprint Resources page](http://www.elderjusticecal.org/2023-blueprint-resources.html) on our website at www.elderjusticecal.org/2023-blueprint-resources.html.

- [**American Bar Association Commission on Law and Aging \(COLA\)**](#) – An interdisciplinary body of experts in aging and law, including lawyers, judges, health and social services professionals, academics, and advocates, that examines law-related issues.
- [**Center for Justice Innovation**](#) (formerly the Center for Court Innovation) – Works with government and communities to conduct research and develop and run programs to reduce the use of incarceration and increase safety and equity.
- [**Elder Justice Coalition**](#) – Membership organization of individuals and organizations that advocates for national policies related to elder justice and is a resource to Congress, the administration, media, and the public.
- [**Elder Justice Coordinating Council webpage**](#) – Provides information on council activities, transcripts and recordings of meetings, and products.
- [**Financial Industry Regulatory Authority \(FINRA\) resources on senior investors**](#) – Government-authorized nonprofit organization that oversees U.S. broker-dealers and provides resources to help financial institutions develop policies, procedures, and practices to protect senior investors.
- [**National Adult Protective Services Association \(NAPSA\)**](#) – Advocates for APS, provides a forum for exchange among APS providers and partners, and convenes groups that focus on research, scams, and financial abuse.
- [**National Association of Community and Restorative Justice \(NACRJ\)**](#) – Addresses crime, conflict, incivility, injustice, and other harms by promoting approaches that are safe, just, equitable, sustainable, reparative, and socially constructive.
- [**National Center on Elder Abuse \(NCEA\)**](#) – One of 27 Administration on Aging-funded Resource Centers, NCEA provides information regarding research, training, best practices, news, and resources on elder abuse, neglect, and exploitation to professionals and the public.
- [**National Center on Law and Elder Rights \(NCLER\)**](#) – Administered by ACL through a contract with Justice in Aging, NCLER provides legal training, case consultations, and technical assistance on legal systems development for legal service providers.

- [National Consumer Voice for Quality Long-Term Care](#) – Advocates for public policies that support quality care in long-term care settings and the rights of long-term care consumers and direct-care workers.
- [National Network of State Elder Justice Coalitions \(NNSEJC\)](#) – Advances state and tribal coalition efforts to stop elder abuse and promote elder justice.
- [Offices of United States Attorneys](#) – Describes the role of U.S. attorneys, provides contact information for U.S. attorneys by state, and lists the rights of federal crime victims.

PROMISING PRACTICES

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- [Elder Fraud Prevention Networks](#) – The Consumer Financial Protection Bureau (CFPB) provides support to local communities to establish elder fraud prevention and response networks. Networks bring together key stakeholders and resources to prevent, detect, and respond to elder financial exploitation. CFPB conducts research on networks, conducts training events, and has produced a handbook.
- [Interdisciplinary Approaches to Elder Justice: Unlocking the Potential of Restorative Practices Virtual Conference](#) – October 15-16, 2020. International event hosted by the Syracuse University School of Law.
- [Money Mule Initiative](#) – This partnership among the DOJ, FBI, USPS, and Departments of Labor, Homeland Security, and the Treasury combats scams involving older adults who unknowingly implicate themselves in crimes by accepting and moving fraudulently obtained money.
- [Montana Code 2-15-2013](#) – Established an Office of Restorative Justice in the state’s Department of Justice. It also defines “restorative justice” as criminal justice practices that elevate the role of crime victims and community members in the criminal justice process, hold offenders directly accountable to the people and communities they have harmed, restore emotional and material losses, and provide a range of opportunities for victim, offender, and community dialogue, negotiation, and problem-solving to bring about a greater sense of justice, repair harm, provide restitution, reduce incarceration and recidivism rates, and increase public safety. Restorative justice programs include but are not limited to victim-offender meetings, family group conferencing, sentencing circles, use of victim and community impact statements, restitution programs, constructive community service, victim awareness education, victim empathy programs, school expulsion alternatives, peer mediation, diversion programs, and community panels.

Endnotes

- 1 See California Department of Aging. California Master Plan for Aging. <https://mpa.aging.ca.gov>
- 2 See Anetzberger, G., Breckman, R., Caccamise, P., Freeman, I., & Nerenberg, L. (2020). Building a National Elder Justice Movement, State by State. *Generations*, 44(1), 111-116.
- 3 To see how California and other states are using COVID relief funds and their strategic plans, see Elder Justice Act Mandatory Grants. <https://acl.gov/grants/elder-justice-mandatory-grants>.
- 4 See Home Safe Interim Evaluation: Key Findings, a report by the UCSF Benioff Homelessness and Housing Initiative's (BHII). <https://homelessness.ucsf.edu/resources/home-safe-interim-evaluation-key-findings>
- 5 See Loss of Board and Care Facilities is at Crisis Level: Undermines California Counties' Efforts to Support Individuals with Serious Mental Illness, Older Adults and Persons with Disabilities at Risk of Homelessness. https://www.calbhbc.org/uploads/5/8/5/3/58536227/board_and_care_crisis_in_ca_fact_sheet_2.28.20_cbhda___lac___si_budget_request___1_.pdf
- 6 At the time of this writing (September 2022) 9,466 out of the 95,415 total deaths in the state occurred in facilities. For updated rates, go to https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/SNFsCOVID_19.aspx.
- 7 See Li, Y., Temkin-Greener, H., Shan, G. and Cai, X. (2020), COVID-19 Infections and Deaths Among Connecticut Nursing Home Residents: Facility Correlates. *Journal of the American Geriatrics Society*, 68: 1899-1906. <https://doi.org/10.1111/jgs.16689>
- 8 See Fact Sheet: Protecting Seniors by Improving Safety and Quality of Care in the Nation's Nursing Homes issued by the White House on February 29, 2022. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/28/fact-sheet-protecting-seniors-and-people-with-disabilities-by-improving-safety-and-quality-of-care-in-the-nations-nursing-homes>
- 9 Harrington, C., Ross, L., Chapman, S., Halifax, E., Spurlock, B., et al. (2020). Nurse Staffing and Coronavirus Infections in California Nursing Homes. *Policy, Politics, & Nursing Practice* 21: 174-186.
- 10 See From Maggots to Sex Abuse, Nursing Homes Sue California to Overturn Citations, Fines, an article in CalMatters published on December 6, 2021. <https://calmatters.org/health/2021/12/california-nursing-homes-fines-lawsuits>
- 11 Harrington, C., Ross, L., Chapman, S., Halifax, E., Spurlock, B., et al. (2020). Nurse staffing and Coronavirus infections in California nursing homes. *Policy, Politics, & Nursing Practice* 21: 174-186.

12 See Fact Sheet: Protecting Seniors by Improving Safety and Quality of Care in the Nation's Nursing Homes issued by the White House on February 29, 2022. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/28/fact-sheet-protecting-seniors-and-people-with-disabilities-by-improving-safety-and-quality-of-care-in-the-nations-nursing-homes>

13 Estate planning is an umbrella term for the process of anticipating and arranging for the management and disposal of a person's estate in the event the person becomes incapacitated and after their death. It encompasses both testamentary documents (wills and trusts) and life planning documents like powers of attorney (POA) and advance health care directives (AHCD). Everyone has an estate regardless of their income level and wealth.

14 See Exploring Restorative Approaches to Elder Justice on CEJC's website for archived webinars. <https://www.elderjusticecal.org/2022-restorative-justice-project.html>

15 See California Justice Gap: Measuring the Unmet Civil Legal Needs of Californians. 2019 report prepared by NORC at the University of Chicago for the State Bar of California, San Francisco, CA. <https://www.calbar.ca.gov/Portals/0/documents/accessJustice/California-Justice-Gap-Report.pdf>

16 See DOJ Elder Justice Decision-Making Capacity Symposium. <https://www.justice.gov/elderjustice/symposium>

17 See Fourth National Guardianship Summit: Maximizing Autonomy and Ensuring Accountability Recommendations Adopted by Summit Delegates. <https://law.syracuse.edu/academics/conferences-symposia/the-fourth-national-guardianship-summit-maximizing-autonomy-and-ensuring-accountability>

18 UCLA Center for Health Policy Research, 2021. See Tan, S., Kudaravalli, S., & Kietzman, K. (2021). Who is Caring for the Caregivers? The Financial, Physical, and Mental Health Costs of Caregiving in California. Los Angeles, CA: UCLA Center for Health Policy Research. <https://healthpolicy.ucla.edu/publications/Documents/PDF/2021/caregivers-policybrief-dec2021.pdf>

19 Alzheimer's Association, 2022, p. 42. See Alzheimer's Disease Facts and Figures, (2022) at <https://www.alz.org/media/documents/alzheimers-facts-and-figures.pdf>

20 Community health workers are front-line public health workers who are trusted members of under-served communities who provide liaison to the formal health and social service networks, facilitate access to services, and improve the quality and cultural competence of service delivery. For more on CHWs, see <https://www.elderjusticecal.org/recording---chw-webinar.html>

21 In July, 2022, California received approval from CMS to use Medicaid funding for CHWs. <https://www.dhcs.ca.gov/community-health-workers>

- 22 See <https://www.caloes.ca.gov/wp-content/uploads/Grants/Documents/2019-JLBC-Report.pdf>. For updates, go to <https://www.caloes.ca.gov/wp-content/uploads/Grants/Documents/2022-JLBC-Report.pdf>.
- 23 See <https://www.caloes.ca.gov/office-of-the-director/policy-administration/finance-administration/grants-management/search-for-grants> for up-to-date information on upcoming grant announcements.
- 24 See Federal Trade Commission. (2021). Serving Communities of Color. <https://consumer.ftc.gov/consumer-alerts/2021/10/new-report-serving-communities-color>
- 25 From “The Role of Elder Justice in Our National Racial Justice Reckoning: Why This Justice in Aging Attorney Says the Two Are Intertwined”. July 28, 2021, nextavenue. <https://www.nextavenue.org/elder-justice-racial-justice>
- 26 See CEJC’s Principles of Elder Justice at https://www.elderjusticecal.org/uploads/1/0/1/7/101741090/cejc_principles_of_ej_june_2021.pdf.
- 27 In June of 2020, forty-seven state and territorial coalitions signed on to the “Moment of Truth,” a statement that details the harms caused by the mainstream domestic violence and sexual assault movements and commits to finding alternatives to criminal justice responses in community with BIPOC leaders.
- 28 See Master Plan for Aging Equity Tool at https://cdn-west-prod-chhs-01.dsh.ca.gov/chhs/uploads/2020/09/29095631/EquityTool_Glossary_MPA_V04.pdf.
- 29 See 2021 Profile of Older Americans at https://acl.gov/sites/default/files/Profile%20of%20OA/2021%20Profile%20of%20OA/2021ProfileOlderAmericans_508.pdf

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