

2018
New Jersey
Task Force on
Abuse of Persons who
are Elderly or Disabled

Findings and Recommendations



State of New Jersey
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Task Force Purpose

The New Jersey Task Force on Abuse of Persons who are Elderly or Disabled was established by P.L. 2016, Chapter 3, on May 23, 2016 in order to 1) evaluate current policies that are designed to protect older adults and persons with disabilities from instances of abuse, neglect, and financial exploitation; 2) identify any existing circumstances that allow for the inadequate protection of older adults and persons with disabilities against instances of abuse, neglect, and financial exploitation; and 3) develop recommendations for legislation, policies, and strategies that would provide a more effective and efficient means by which to protect older adults and persons with disabilities from abuse, neglect, and financial exploitation. (See *Appendix A*) The Task Force was directed to consult with associations, organizations, and individuals who are knowledgeable about the abuse, neglect or financial exploitation of older adults and persons with disabilities and to submit a written report with findings and recommendations to the Governor and Legislature. The Task Force respectfully submits the enclosed report in accordance with its charge.

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Task Force Focus: Scope of the Problem

**All titles current as of Jan. 1, 2018.*

Abuse, neglect and exploitation of individuals with disabilities and the elderly is a problem of significant proportions. The Census Bureau estimates that 15.3% of the State's population, or nearly 1.4 million people, are over 65¹. While the older adult population is spread throughout the state, six of the state's 21 counties accounted for just over half of New Jersey's population age 60 and older in 2010: Bergen, Ocean, Middlesex, Essex, Monmouth, and Morris.² Meanwhile, 10.3% of the State's population, or nearly a million people, have self-identified as having a disability.³ New Jersey's population is diverse both ethnically and racially.⁴

Evidence supports that abuse against the elderly and people with disabilities is increasingly common. Although it is impossible to pinpoint the exact prevalence of abuse (the vulnerability of the population makes it especially easy to ignore or underreport cases), recent studies have found that the societal prevalence of elder abuse may be as much as 10% when including physical abuse, psychological or verbal abuse, sexual abuse, financial exploitation, and neglect.⁵ For specific populations, though, that risk is even greater. A person with disabilities has a more than doubled risk

¹ United States Census Bureau Population Tables, 2010-2017.

² Bonnie, R.J. Editor & Wallace, R.B. Editor (Eds.), *Elder mistreatment: abuse, neglect, and exploitation in an aging America* (303–339)

³ Erickson, W., Lee, C., & von Schrader, S. (2014). 2012 Disability Status Report: New Jersey. Ithaca, NY: Cornell University Employment and Disability Institute(EDI). Nearly half of the population over 75 self-identified as having a disability, so some of these two populations overlap.

⁴ Exner, Rich (June 3, 2012). "Americans under age 1 now mostly minorities, but not in Ohio: Statistical Snapshot". *The Plain Dealer*.

⁵ Lachs, M., & Pillemer, K. (2015). Elder abuse. *New England Journal of Medicine*, 373, 1947–56.

of suffering abuse and exploitation compared to a person without disabilities.⁶ Literature suggests that anywhere from a quarter to 90% of adults with disabilities will suffer some sort of interpersonal violence during their lifetimes.⁷ Various factors common to these populations increase the risk of financial exploitation, including poor health, and the need for assistance.⁸ Lower income or poverty may also contribute to abuse, on the theory that the lack of available resources increases stress in a family or group situation and leads to the added potential for abuse.⁹

Individuals with cognitive disabilities have the highest rate of victimization with respect to total violent crime, serious violent crime and simple assault. Close to half of people with dementia experience some kind of abuse before the end of their lives.¹⁰ Such abuse and/or exploitation affects various age groups differently. The available research regarding financial exploitation indicates that adults under 70 are more likely to be affected by unrelated fraudulent actors, whereas those from 80 - 89 suffered most often at the hands of a family member.¹¹

Abuse carries even greater long-term harm than the underlying acts or crimes. Abused older adults carry a 300% higher risk of death¹² than other seniors and are

⁶ Crimes Against Persons with Disabilities, 2009-2015 Statistical Tables, U.S. Department of Justice, Bureau of Justice Statistics, July 2017.

⁷ Hughes, R., Lund, E., Gabrielli, J., Powers, L., & Curry, M. (2011). Prevalence of interpersonal violence against community-living adults with disabilities: A literature review. *Rehabilitation Psychology*, 56(4), 302–319.

⁸ Peterson, J., Burnes, D., Caccamise, P., Mason, A., Henderson, C., Wells, M., & Lachs, M. (2014). Financial exploitation of older adults: a population-based prevalence study. *Journal of General Internal Medicine*, 29(12), 1615–23.

⁹ Friedman, B., Santos, E.J., Liebel, D.V., Russ, A.J., & Conwell, Y. (2015). Longitudinal prevalence and correlates of elder mistreatment among older adults receiving home visiting nursing. *Journal of Elder Abuse and Neglect* 27(1), 34–64.

¹⁰ Quinn, K., & Benson, W. (2012). The states' elder abuse victim services: a system in search of support. *Generations* 36(3), 66–71.

¹¹ Elder Financial Abuse Prevention and Treatment: Wells Fargo Advisors' Elder Client Initiatives Team, *The Gerontologist*, Volume 56, Issue Supp. 3, 1 November 2016, Pages 356–357.

¹² Dong, X, Simon, M., Mendes de Leon, C., Fulmer, T., Beck, T., Hebert, L. (2009). Elder self-neglect and abuse and mortality risk in a community-dwelling population. *Journal of the American Medical Association*, 302(5), 517–526.

three times more likely to be admitted to a hospital.¹³ Elder abuse can lead to disability where none previously existed, and causes increased rates of emergency department utilization in addition to hospitalization and death.¹⁴ The consequences of the problem are daunting, yet adult maltreatment often goes unreported or unaddressed.

Professionals often lack awareness and misconceive important indicators. In the past, there has been a shortage of research in the field. In addition, many victims fear losing their independence and/or being institutionalized and are therefore reluctant to come forward.

Unfortunately, law enforcement agencies often consider reports of theft by relatives to be family or civil matters. Many prosecutors consider elderly or disabled victims to be unreliable witnesses.

The Task Force's intention is to bring the problem of adult abuse into greater focus, to suggest ways to prevent its proliferation, and to better our response to its devastating consequences.

¹³ Dong, X. Q., & Simon, M. A. (2013). Elder abuse as a risk factor for hospitalization in older persons. *JAMA Internal Medicine*, 173(10), 911–917.

¹⁴ Lachs, M.S., Williams, C.S., O'Brien, S., Hurst, L., Kossack, A., Siegal, A., & Tinetti, M.E. (1997). ED use by older victims of family violence. *Annals of Emergency Medicine*, 30(4), 448–454.

Task Force Activities

The Task Force met eight times between January 5 and December 7, 2017. One of the first endeavors was to establish guiding principles to inform the Task Force's work. Following this, the members reviewed priorities and findings of similar task forces in nine other states (see *Appendix B*), as well as input from several APS supervisors regarding their greatest challenges

With the benefit of this background research, the Task Force was ready to select the priorities that form the underpinnings of the goals set forth in the latter part of this report. To educate itself about the details of the problems it wished to address, the Task Force heard from numerous subject matter experts. It reviewed significant federal and state initiatives, learned about relevant programs and engaged in discussion that brought to bear the varied expertise of the members. Only after all of these activities were completed was the Task Force prepared to set forth its recommendations.

Guiding Principles of the Task Force

As set forth above, the Task Force members chose to adopt guiding principles to set forth a foundation for its work together. These principles are set forth in bold type below, along with the rationale for each:

People who are elderly or disabled have a right to be free from abuse, neglect and exploitation.

- A fundamental human right, this principal acknowledges the inherent dignity and worth of all human beings of all ages and abilities.
- Abuse, neglect and exploitation are neither “normal” nor tolerable parts of aging or having a disability.
- Elderly and disabled victims are not to be blamed for occurrences of abuse.

Adults have the right to accept or refuse assistance and to live their lives as they choose.

- The imposition of personal values against others must be prevented.

- The acknowledgement that all people are different, with different outlooks and lifestyle choices and different cultural, ethnic and religious identities. We must honor those differences.
- Adults have a right to receive information about their choices and options in a form or manner that they can understand.
- People have a right to make personal decisions, such as whether to manage their own finances, whether to enter into contracts, whether and when to marry, etc., unless a court determines otherwise, based upon proper evidence of an inability to do so.

Protective actions imposed upon adults should be the least restrictive to ensure safety and security and maintain independence, privacy and dignity.

- Informed consent must be given by any adult before assistance or services are provided.
- An individual's right to privacy must be respected.
- If protection and services are required, they should maximize the adult's independence and choice to the extent possible, based on the adult's capacity.
- The least restrictive alternatives should always be used.

Addressing criminal victimization of elderly and disabled adults is of critical importance.

- All victims are entitled to justice, regardless of age or disability.
- Any barriers to this must be identified and addressed.

- Resolving the problems of abuse, neglect and exploitation cannot be accomplished by one entity or organization.
- A coordinated, comprehensive response is necessary to ensure that adult abuse, neglect and exploitation are understood and prevention and response are prioritized.

Task Force Priorities

The Task Force focused most, though not all, of its work on abuse, neglect, and financial exploitation in community settings. Based on members' collective experience, individuals who are outside any regulated setting or system are the most vulnerable of all. This focus in no way diminishes the importance of addressing the abuse, neglect and exploitation of individuals with disabilities and the elderly in other environments. To this end, the Task Force endorses further inventory, review and action regarding the prevalence and characteristics of abuse in all its settings.

The Task Force members agreed that the focal points around which it would base its recommendations would be the following:

- Develop and promote increased public awareness of the nature and scope of adult maltreatment;
- Expand and heighten professional awareness regarding the abuse, neglect and exploitation of the elderly and individuals with disabilities; and
- Strengthen the systems and collective response of agencies that prevent and respond to such mistreatment.

Task Force Review of Significant Federal and State Initiatives

To assist in its development of recommendations, the Task Force reviewed the following initiatives related to the prevention, identification, and treatment of abuse, neglect and financial exploitation of vulnerable adults:

FEDERAL INITIATIVES

The Elder Justice Act

The Elder Justice Act (EJA), enacted in 2010 as part of the Affordable Care Act, applies to seniors aged 60 and older and was the first piece of comprehensive national legislation to address elder abuse. Its objectives include coordinating responses to elder abuse across federal and state agencies and supporting efforts to detect and prevent elder abuse. The EJA defines elder justice as efforts to “prevent, detect, treat, intervene in, and prosecute elder abuse, neglect and exploitation [and] protect elders with diminished capacity while maximizing their autonomy.” The law promotes elder justice by authorizing a variety of programs and initiatives to better coordinate federal responses to elder abuse, promote elder justice research and innovation, support Adult Protective Services (APS) systems, and provide additional protections for residents of long-term care facilities.

Elder Justice Coordinating Council

Created by the Elder Justice Act, the Elder Justice Coordinating Council (EJCC) coordinates activities related to elder abuse, neglect, and exploitation across the federal government. The Administration on Aging (AoA), within the Administration for Community Living, is responsible for the Council. AoA has long been engaged in efforts to protect older individuals from elder abuse, including financial exploitation, physical abuse, neglect, psychological abuse, and sexual abuse. Through the Older Americans Act, AoA endeavors to preserve the rights of older people and protect those who may not be able to protect themselves. The Coordinating Council is comprised of the following 12 federal agencies: the Departments of Health and Human Services, Justice, Housing and Urban Development, Labor, Treasury and Veterans Affairs, as well as the Consumer Financial Protection Bureau, Corporation for National and Community Service, Federal Trade Commission, Securities and Exchange Commission, Social Security Administration and United States Postal Service.

The Elder Justice Roadmap

The Elder Justice Roadmap was released in 2014 by the Department of Justice and the U.S. Dept. of Health and Human Services. Stakeholders inside and outside the federal government participated in its development. The Elder Justice Coalition, a national advocacy agency, solicited input from over 750 stakeholders and subject matter experts from across the country. The information gathered provided opportunities for engagement and feedback in four general areas: a) direct services, including multidisciplinary responses, gap analyses, and funding; b) education, specifically

awareness, culture change (ageism), and training; c) policy, especially related to data, standards, infrastructure and barriers to response; and d) research, including program evaluation, i.e., reviewing & measuring new approaches. The Elder Justice Roadmap has potential application to state efforts to enhance the provision of justice to elderly people and those with disabilities.

Office of Elder Justice and Adult Protective Services

In 2014, the Office of Elder Rights, within the Administration for Community Living (ACL), became the Office of Elder Justice and Adult Protective Services. This created a federal home for Adult Protective Services, a recommendation of the Elder Justice Act. The Office launched the development of the National Adult Maltreatment Reporting System (NAMRS), made enhancement grants to state Adult Protective Services (APS), and established voluntary consensus guidelines for APS programs.

Elder Abuse Prevention and Prosecution Act

On October 18, 2017, the Elder Abuse Prevention and Prosecution Act was signed, indicating an increase in the federal government's focus on preventing elder abuse and exploitation. Key requirements of the law include the following:

- The Attorney General must designate one or more Assistant U.S. Attorneys to serve as an Elder Justice Coordinator in every federal judicial district.
- The Federal Trade Commission Chairperson must designate an Elder Justice Coordinator to expand the efforts of the Bureau of Consumer Protection with respect to safeguarding the elderly.

- Data gathered by the Department of Justice regarding elder abuse cases and investigations must be published.
- The Director of the Office for Victims of Crime will provide Congress with data about cases investigated by Adult Protective Services.
- Penalties are enhanced for convictions of interstate fraud where the victim is elderly, the crime is committed by telephone or electronic means, and the fraud involves an inducement to participate in an investment, commit to a loan or participate in a medical study.
- Adult Protective Services programs will create interstate agreements.
- The Comptroller General will make recommendations to Congress regarding how to prevent elder abuse.
- The Attorney General will publish model legislation addressing guardianship proceedings and powers of attorney focused on preventing elder abuse.

World Elder Abuse Awareness Day

World Elder Abuse Awareness Day (WEAAD) was launched in 2006 and is annually convened by the National Adult Protective Services Association, the National Center for Victims of Crime, and the International Network for the Prevention of Elder Abuse, in collaboration with national and international partners. Every June 15, communities and organizations at all levels (international, national, regional, and local) around the world participate in activities to mark the day. This annual recognition provides an opportunity for the dissemination of information to raise awareness about the growing problem of physical, emotional, and financial abuse of elders.

White House Conference On Aging

The White House Conference on Aging (WHCoA), convened in July 2015, is a once-a-decade conference sponsored by the Executive Office of the President of the United States. The Conference provides a vehicle for identifying and advancing actions to improve the quality of life of older Americans, including the greater numbers of people experiencing elder abuse and mistreatment.

A year of pre-conference activities and conversations informed this event, allowing a broad range of stakeholders to provide substantial input and feedback on the main policy topics: Retirement Security, Healthy Aging, Long-Term Services and Supports, and Elder Justice. In addressing Elder Justice, the following targeted efforts to raise elder mistreatment as a national priority were announced at the Conference:

- Support victims of crime;
- Improve the science of understanding and preventing elder abuse;
- Protect older Americans from financial exploitation and elder abuse;
- Train elder abuse prosecutors; and
- Develop online training for law enforcement personnel.

2018 FINRA Rules

On February 5, 2018, new rules promulgated by the Financial Industry Regulatory Authority (FINRA) went into effect. These are aimed at addressing financial exploitation of seniors. Approved by the Securities and Exchange Commission, FINRA's new rules will make two key changes to protect senior investors. First, member firms will be required to make "reasonable efforts" to obtain the name and contact information for

a trusted contact person. Second, the rules will permit member firms to place temporary holds on customer accounts when there is a reasonable belief of financial exploitation.

NEW JERSEY STATE INITIATIVES

Over the last several years, there have been numerous developments in New Jersey to address abuse of individuals with disabilities and the elderly. The following are some of these initiatives.

The Stephen Komninos' Law

The Stephen Komninos' Law is a New Jersey law named after Mr. Stephen Komninos, a young man with a developmental disability who resided in a New Jersey group home. In 2007, Mr. Komninos tragically passed away at the age of 22.

The law was enacted on October 6, 2017 and requires the Department of Human Services to make two annual unannounced visits to community-based, licensed residential programs, such as group homes and supervised apartments, to look for instances of abuse, neglect or exploitation. The law also sets time limits to notify families of any injury or incident of alleged abuse, neglect or exploitation and increases criminal penalties for failure to comply. The Department of Human Services is required to post this law on its website and a toll-free phone number to report any incidents of abuse, neglect or exploitation must be posted in every licensed setting.

The law is supplemented by previously enacted mandates to ensure care and safety of individuals with developmental disabilities living in community residential settings. Key among these mandates are the following:

- Strengthened licensing regulations and mandates, a strong supervisory structure for staff, including direct support staff;
- A central registry, accessible for staff hiring and tracking purposes, providing information if a person is found to have committed abuse, neglect or exploitation in settings serving individuals with developmental disabilities; and
- All agencies licensed by the Department of Human Services must conduct expanded background checks of individuals prior to hiring.

Peggy's Law

Peggy's Law, PL 2017, c. 186, was signed on August 7, 2017 and effective sixty days thereafter. It requires any caretaker, social worker, physician, nurse or other staff member working in New Jersey's more than 900 state-regulated long-term care facilities to promptly contact local law enforcement if there is reasonable cause to suspect that an elderly person is being abused, exploited, or subject to other criminal harm. The law was named for Peggy Marzolla, a 93-year-old nursing home resident who died in 2010 from injuries sustained in her residence. Staff of long-term care facilities must contact police within 24 hours if maltreatment that do not result in serious bodily injury is suspected or within 2 hours if maltreatment that results in serious bodily injury is suspected. They must also contact the Office of the New Jersey Long-Term Care Ombudsman within that timeframe. In addition, the law increases financial penalties for individuals who do not comply with reporting requirements.

“Safe Care Cam” Program

In December 2016, the Division of Consumer Affairs, a unit of the New Jersey Attorney General’s Office, unveiled its “Safe Care Cam” program. The program makes micro-surveillance cameras available for free 30-day loans to New Jersey residents who suspect that their loved ones are being abused or neglected in community-based or institutional settings.

Office of the Ombudsman for Individuals with Intellectual Disabilities and their Families

The Office of the Ombudsman for Individuals with Intellectual Disabilities and their Families Act, PL 2017, c. 269, passed both houses of the New Jersey Legislature on December 18, 2017, and signed into law on January 8, 2018. It establishes the Office of the Ombudsman for Individuals with Intellectual or Developmental Disabilities and their Families. The Office exists in, but not of, the Department of the Treasury. The Governor-appointed Ombudsman must be “qualified by training and experience to perform the duties of the office” and must be “a person of recognized judgment, integrity, and objectivity” who is “skilled in communication, conflict resolution, and professionalism.” The bill calls for the Ombudsman to organize and direct the work of the Office to provide information, support, and assistance to obtain and coordinate needed services and to advocate for the personal goals of individuals with intellectual disabilities and their families.

New Jersey Judiciary Initiatives

The New Jersey Judiciary has implemented certain practices and initiatives to help combat abuse against elderly people and individuals with disabilities. These have focused primarily on judicial education and guardianship monitoring.

According to a letter dated March 19, 2018 that the Task Force received from Glenn A. Grant, J.A.D., Acting Administrative Director of the Courts, education of Superior Court judges is at the center of the Judiciary's work in preparing judges to respond effectively to instances of abuse, neglect and financial exploitation of members of such populations. Initially, new judges receive training specific to the court divisions to which they are assigned. This training may include content related to abuse, neglect and financial exploitation of elderly and disabled adults. The Judiciary's annual Judicial College and division-specific Education Conferences offer introductory and specialized courses for judges on such topics. Examples of such courses include Elder Abuse, the Intersection of Disability and Domestic Violence, and Autism in the Courts.

The Judiciary Guardianship Monitoring Program (GMP) is a statewide volunteer-based court program operated in partnership with New Jersey's county Surrogates to monitor guardians in their handling of the affairs of incapacitated adults. The program monitors submission of required periodic financial reports to the court, and utilizes Judiciary-appointed volunteers to review such reports, to reduce the potential for abuse and exploitation of incapacitated individuals by their guardians. The Judiciary also provides education and information to guardians related to the duties and responsibilities of guardianship.

Task Force: Summary of Findings

In formulating its findings, the Task Force carefully considered reports from similar entities in nine other states, oral and written materials from subject matter experts (both Task Force member and non-member), input from Adult Protective Services, federal and state initiatives, and best practices in addressing abuse, neglect and financial exploitation. While this work uncovered areas for improvement, the Task Force learned that good ideas and innovative practices already exist in many parts of our state. These practices need to be shared, expanded and strengthened.

WORKING TOGETHER: CROSS-SYSTEM COLLABORATION

One of the clearest themes to emerge from the Task Force was the need for consistent cross-system collaboration. Speakers and Task Force members alike spoke of the need for formalized opportunities for professionals to work collaboratively on cases that cross system boundaries. Members learned that groups performing similar or related tasks involving the exact same abuse victim are sometimes unaware of each other's efforts. Given the importance of properly allocating limited resources, this issue was notable.

The Multi-Disciplinary Team ("MDT")

At this time, the most rudimentary step towards creating a consistent culture of collaboration is to facilitate the establishment of a Multi-Disciplinary Team in each county. Most of the experts who addressed the Task Force recommended this course of action.

There are already several groups that employ an interdisciplinary approach to adult maltreatment in pockets of the state, although they vary in composition, focus and overall approach. For example, Gloucester County has an Elder Abuse Group, which includes, among others, representatives of the Prosecutor's Office, APS and its hospital system. Bergen County has an Acute Systems Review Committee that meets monthly to address abuse cases. Ocean County has a Coordinated Community Response Team (CCRT) composed of representatives from APS, the police, the Prosecutor's Office, and domestic violence services, among others. Middlesex County has a similar group. There was a strong sense among the Task Force that a coordinated system of MDT's should be created in all regions of the state.

During the Task Force's tenure, Division of Aging Services staff members visited a meeting of a New York City-based Multi-Disciplinary Team ("MDT") that is considered a model in the region. Staff reported back to the Task Force members regarding the composition of the team, use of technology, procedures and case examples. The report was enthusiastically received.

KEEPING WHAT WORKS: INNOVATIVE PRACTICE EXPANSION

The Task Force found that the system of response to adult maltreatment is sometimes disjointed and inconsistent. Members believe that the reaction to adult maltreatment reports should be uniform regardless of where in the state the alleged abuse, neglect or exploitation occurs. In contemplating this goal, the Task Force took note of certain positive practices that should be built upon or replicated to help facilitate an optimal and consistent outcome for victims regardless of their county of residence.

The Shelter Movement

The Task Force determined that the Shelter Movement should be further studied for possible expansion in the state. The concept of a nursing-home based shelter acknowledges that often the only way to stop an urgent abuse situation of a vulnerable adult is to relocate the victim prior to and during the time the matter is in Court. In the case of vulnerable adults with extensive healthcare needs who are victims of violence in their homes, a nursing home shelter may be the safest solution. One such nursing home level of care shelter exists in the state and is located in Bergen County. Funding, however, is an impediment. Currently, fundraising and self-funding are the primary methods of support for this shelter.

Middlesex County Prosecutor's Elder Abuse Conference

Representatives of the Middlesex County Prosecutor's Office attended a Task Force meeting and shared information about their efforts to educate municipal law enforcement officers to recognize and respond to the growing number of adult maltreatment cases. The Office held a highly successful two-day training in 2016 and required each municipality in the county to send at least one officer. A broad array of speakers from throughout the state was invited to discuss their programs to address elder abuse. Organizations and agencies that support the work of law enforcement (many of which were previously unknown to attendees) were introduced to the officers, resulting in informal discussions and plans for collaboration. Although this Conference did not obviate the need for an increase in ongoing formal education for law enforcement, it was viewed as a best practice that should be replicated in other counties.

The Greenwood Approach

Another innovative concept that the Task Force viewed favorably involved setting aside the outdated notion that cases involving crimes against people with disabilities and elderly people cannot be successfully prosecuted and are therefore not worth pursuing. The Task Force heard from the Medicaid Fraud Control Unit of the New Jersey Attorney General's office on recent favorable outcomes arising from this paradigm shift. The Attorney General's Office, as well as several county-based law enforcement agencies, has taken the lead in creating novel strategies to pursue these matters despite their difficulty.

This positive approach to achieving justice for elderly and disabled crime victims was popularized by Paul Greenwood, of the San Diego District Attorney's Office. As set forth in Mr. Greenwood's 2012 testimony before the U.S. Senate Special Committee on Aging, in order to create lasting change we must focus on the following factors: a) eliminating age discrimination and bias in our attitude towards prosecution of cases involving elderly victims, b) avoiding falling into the trap of concluding that the elderly and people with disabilities cannot be effective witnesses, c) dispelling the notion that financial exploitation cases are impossible to prove because of mental capacity issues, and d) questioning the belief that cases involving misuse of Powers of Attorney are best dealt with as civil matters. By adopting this strategy, the Attorney General's Office has been successful in obtaining justice for many vulnerable adults.

SHARPENING THE TOOLS IN THE TOOLBOX

The Task Force determined that our collective level of skill in addressing elder and disability abuse is roughly equivalent to our level of agility in addressing child abuse thirty years ago. Many felt that the framework upon which our response rests should be updated to reflect the unfortunate proliferation of abuse, neglect and exploitation.

More Impactful Laws

Most speakers and members believe that the statutory framework for identifying and punishing those who commit crimes involving adult maltreatment should be strengthened. The Task Force considers enhanced and targeted penalties absolutely necessary to signal the seriousness of such crimes. The laws governing Powers of Attorney were also found to be in need of review; there was a sense that too many power of attorney documents are being used as licenses to steal. It was suggested by several speakers that N.J.S.A. 2C:24-8 (see *Appendix C*) be amended to include financial exploitation. In addition, many Task Force members felt that there should be an acknowledgement of age difference between an abuser and victim in determining penalties.

Further, some members recommended that appropriate steps be taken to ensure the availability of options that would constitute an alternative to criminal prosecution, such as referral to appropriate services, use of restraining orders and license revocation. There was also discussion about laws in other states such as California, which appear to provide for a more coordinated response to wrongdoing affecting the elderly and people with disabilities. The existence of an integrated statutory scheme

along with the use of technology helps ensure that the judiciary, law enforcement and state agencies are not working at cross-purposes.

Expanding Mandatory Reporting

In light of heightened concern about the class of individuals set forth above, members of the Task Force determined that it would make sense to expand the class of mandatory reporters to professionals encountered in everyday settings. Currently, the Adult Protective Services statute as amended in 2010 requires a select group of professionals to report suspicions of abuse.¹⁵ The group felt that the class of professionals required to report should be expanded to include other professionals (particularly those in the banking field). Funding would be required to educate both the existing and proposed new group of mandatory reporters. More robust APS funding, which might potentially be obtained through federal financial participation, would also allow the agency to handle the increased number of case referrals.

Increased Disability Awareness Training for First Responders

Until relatively recently, the prevalence of abuse, neglect and exploitation of people with disabilities was neither studied nor fully acknowledged. Its historic status was that of a "silent" epidemic. It is therefore significant that today New Jersey's law enforcement officers in 600 agencies across the state receive a 5-hour mandatory training on individuals with special needs, in addition to a class during recruit training.

Notwithstanding the recent expansion of training for First Responders, the Task Force concluded that an even greater amount of targeted education would significantly

¹⁵ N.J.S.A. 52:27D-409 (See *Appendix D*)

contribute to a more robust overall response. Abuse may look different depending on the type of disability one possesses; to properly identify its various forms, more specific training is needed. It was also noted that there are many not-for-profit organizations willing to provide education on how issues of abuse, neglect and exploitation manifest themselves in various populations.

Enhanced Strategies to Protect Individuals Receiving Few or No Services

Individuals who live in licensed community settings and/or receive public services receive the benefit of regulatory safeguards. However, many vulnerable adults reside in homes and apartments across the state, whether with family, with friends or alone. They live in the least restrictive environment in which they can successfully be part of their community. They may or may not handle their own finances; they may or may not have family or a circle of support to assist them in decision-making. This population may experience heightened vulnerability to exploitation. New strategies should be identified to acknowledge that abuse, neglect and exploitation occur across a wide variety of community settings, not just in licensed living arrangements.

Task Force Recommendations

GOAL 1:

Increase the Public's Awareness and Knowledge about Abuse of the Elderly and Individuals with Disabilities.

Objective: Promote a statewide effort to inform the public about abuse of elderly and disabled people, including its importance, the warning signs and how to report it.

Strategies:

- Develop a public awareness campaign with strong messaging posted in public centers, transportation hubs, government buildings and similar public spaces.
- Disseminate information in hardcopy, in the media and on social network sites, stressing who is vulnerable, what to look for and how to report. Highlight supports available to help victims.
- Foster the establishment of a unique telephone number (i.e., 911, 411, 311) where people can report suspicious activity related to adult abuse. Publicize this number in doctors' offices, post offices, utility company mailings and pharmacies.
- Demonstrate the relevance of this issue to all ages, beginning with training school-aged children on significance and warning signs of this issue much as schoolchildren are taught early on the perils of smoking.
- Localize and expand upon national and previous state efforts to draw

attention to adult maltreatment, such as Word Elder Abuse Awareness Day.

Objective: Focus attention on those most at risk of abuse, neglect and exploitation.

Strategies:

- Create and disseminate a system of peer-to-peer support and warnings about victimhood delivered by those willing to discuss their experiences.
- Encourage the development of unpaid caregiver education on the warning signs of adult maltreatment, utilizing support groups, religiously affiliated organizations, and other places where unpaid caregivers may gather or seek help.
- Educate individuals to plan for possible disability or incapacity by executing documents granting power of attorney or proxy powers with safeguards to a responsible and trusted other.
- Create and widely circulate a bill of rights for people with disabilities and elderly individuals.
- Bolster victim advocacy initiatives to reduce the stigma of victimization so people who are abused or exploited understand that it is not their fault and seek appropriate help.
- Strengthen supports for victims who fear losing family support or attention if an abusive, neglectful or exploitative family member is reported.
- Formulate additional strategies, such as expanded reporting requirements, to target individuals receiving few or no services.

- Promote the creation of additional shelter beds for elderly and disabled at-risk victims.
- Identify steps to be taken to streamline public benefits eligibility for elderly and disabled maltreatment victims, including victims of financial wrongdoing

Objective: Draw public attention to existing agencies and resources designed to work with and protect elderly and disabled people and highlight the mission of each.

Strategies:

- Increase awareness and outreach capabilities of each county's Area Agency on Aging with respect to ability to provide education to targeted populations.
- Encourage widespread publication of matters law enforcement agencies have successfully prosecuted to signal the seriousness of crimes against elderly and disabled people.
- Create a unified, collaborative campaign showing the pathway to reporting instances of adult maltreatment in each county.
- Research opportunities for federal financial participation to increase funding to Adult Protective Services in order to a) establish uniform public training and outreach on how to prevent and report adult abuse, b) accommodate increased reporting resulting from increased awareness.
- Expand upon existing intensive case management services for self-neglecting individuals.

- Promote awareness of existing respite programs.

GOAL 2:

Increase Professional Awareness of Elder and Vulnerable Adult Mistreatment.

Objective: Develop widespread professional awareness of scope of problem.

Strategies:

- Actively outreach to relevant professions to convey the scope of the problem in New Jersey and to stress the toll exacted upon victims and society.
- Enable cross-professional collaboration and understanding of the interdisciplinary nature of the problem.
- Promote consistency of agency responses to reports of adult maltreatment from county to county throughout the state.

Objective: Develop ongoing appropriate professional training.

Strategies:

- Promote the creation of uniform professional training modules for use in the following professions: legal (including court-appointed attorneys and court-appointed guardians), law enforcement, medical/health care-related, and finance. Include training on the Americans with Disabilities Act.
- Assure uniform training modules avoid “siloing” of resources and increase understanding among professionals regarding how they must work together to address abuse issues.
- Support heightened judicial training on issues related to abuse of the

elderly and persons with disabilities, e.g., the treatment of abuse victims, consideration of evidence and testimony, and referrals to law enforcement on civil matters.

- Explore ways to use court intake documents to identify individuals at heightened risk of exploitation.
- Formulate a way to track court documents to help identify whether financial abuse is being perpetrated through certain indicators such as default judgments.
- Facilitate training of municipal prosecutors to recognize and report suspected exploitation issues.
- Advocate for the establishment of an interdisciplinary committee of relevant professionals to develop, disseminate and provide training on uniform response procedures across all disciplines and uniform terminology to support same.
- Train EMTs, coroners, firefighters and first responders who may not already be trained to look for signs of mistreatment when attending to the deaths of vulnerable adults in the home.

Objective: Promote understanding of the barriers to reducing adult maltreatment.

Strategies:

- At every opportunity, delineate and highlight the role that prejudice against the elderly (ageism) and people with disabilities plays in underreporting.
- Work to dispel the stigma that elderly and disabled people make poor

witnesses and that such cases are unwinnable.

- Whenever possible, enlist support in challenging and changing the culture of “it’s just a family matter” or “it’s just a civil issue.”
- Create opportunities for cross-professional communication and consensus-building to reach agreement about what constitutes adult maltreatment.
- Advocate for enhanced civil and criminal penalties for those who abuse and exploit individuals who are elderly and disabled as a way of sending a signal to potential abusers that adult maltreatment has serious consequences.

Objective: Promote the creation of a coordinated interdisciplinary response to adult maltreatment across professions.

Strategies:

- Support the creation of county multi-disciplinary teams (MDT's) to address instances of abuse of elderly and disabled adults.
- Identify industry and other partners and grant opportunities to support county-based MDTs.
- Ensure that each county prosecutor’s office appoints an Adult Maltreatment Detective to provide investigative coordination and expertise to MDTs, to oversee training, to serve as a liaison to agency partners and to oversee collection of statistical data.
- Facilitate the creation of a coordinating council to bring together agencies working on abuse of elderly and disabled people to share

information and reporting standards, avoid duplication of efforts, review definitions and processes, ensure standardized responses and explore other areas of partnership.

- Require law enforcement agencies across the state to report instances of adult maltreatment to the appropriate unit of the New Jersey Attorney General's Office.
- Foster coordination between the Office of the Attorney General and the Department of Banking and Insurance with regard to training of bank staff to identify financial irregularities.
- Explore the removal of licensing and/or insurance barriers to the provision of *pro bono* professional care and services to victims.
- Work with the New Jersey State Bar Association to incentivize the private bar to provide legal assistance to victims of abuse or exploitation. Consider fee shifting provisions to encourage participation.
- Investigate methodologies for more robust data gathering, including incident reports from professionals.
- Explore statutory schemes of other states that address abuse more holistically.

GOAL 3:

Strengthen Systems that Prevent and Respond to the Mistreatment of Vulnerable Adults.

Objective: Expand the category and scope of individuals who are mandated to report adult maltreatment.

Strategies:

- Create a statutory duty for financial professionals to report reasonable suspicions of abuse of elderly and disabled people.
- Provide funding for education of current mandatory APS reporters, including health care professionals, law enforcement officers, firefighters, paramedics and emergency medical technicians.
- Require mandatory reporting to licensing agencies for professionals found to have engaged in abuse or exploitation of a person who is elderly or disabled.

Objective: Facilitate the creation of a successor entity to the New Jersey Task Force on Abuse Against the Elderly and People with Disabilities to coordinate and oversee the Recommendations of the Task Force.

Strategies:

- Create a collaborative body of public and private stakeholders focused upon advancing the prevention of, and response to, adult maltreatment by seeking implementation of the recommendations of the Task Force.
- Explore public, private and grant funding to subsidize the work of the successor entity and to ensure its continuity.

CONCLUSION:

In fulfilling its mandate, the Task Force set goals and priorities, did extensive research and fact-finding, consulted subject matter experts, reviewed legislation and statistics and brought to bear upon its charge the varied expertise of its members. Based upon this work, the Task Force concluded that the mistreatment of members of our elderly and disabled population is not a narrow, isolated problem. Rather it is a large-scale community concern that impacts us all.

The New Jersey Task Force on Abuse of Persons who are Elderly or Disabled urges the continued development of a collaborative, consistent and holistic response to the problem of adult abuse, neglect and exploitation. This approach will serve to ensure the continued dignity and well-being of all New Jersey's residents.

Acknowledgements

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contribution to the task force.*

Appendix A

Public Laws of 2016, Chapter 3

An Act concerning the abuse, neglect, and financial exploitation of persons who are elderly or disabled.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. a. There is established the “New Jersey Task Force on Abuse of Persons who are Elderly or Disabled.” The task force shall: (1) evaluate current policies that are designed to protect older adults and persons with disabilities from instances of abuse, neglect, and financial exploitation; (2) identify any existing circumstances that allow for the inadequate protection of older adults and persons with disabilities against instances of abuse, neglect, and financial exploitation; and (3) develop recommendations for legislation, policies, and strategies that would provide a more effective and efficient means by which to protect older adults and persons with disabilities from instances of abuse, neglect, and financial exploitation.

b. The task force shall consist of 11 members as follows: the Commissioners of Health and Human Services, the Ombudsman for the Institutionalized Elderly, and the President of the New Jersey State Municipal Prosecutors’ Association, or their designees, who shall serve *ex officio*; the State Director of the AARP; a representative from Adult Protective Services in the Division of Aging Services in the Department of Human Services; and five public members having relevant knowledge of, or experience in, matters related to the abuse, neglect, or financial exploitation of older adults or persons with disabilities. With respect to the task force’s public members, three shall be appointed by the Governor, one shall be appointed by the Senate President, and one shall be appointed by the Speaker of the General Assembly. Vacancies in the membership of the task force shall be filled in the same manner provided for the original appointments.

c. The task force shall organize as soon as practicable, but not more than 120 days after the date of enactment of this act. The task force may meet and hold hearings at such places and times as it shall designate.

d. The members of the task force shall serve without compensation, but may be reimbursed for travel and other necessary expenses incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the task force for its purposes.

e. The Department of Human Services shall provide professional and clerical staff to the task force as may be necessary for the task force's purposes. The task force shall also be entitled to call upon the services of any State, county, or municipal department, board, commission, or agency, as may be available to it for its purposes.

f. In executing its duties under this act, the task force shall consult with associations, organizations, and individuals who are knowledgeable about the abuse, neglect, or financial exploitation of older adults and persons with disabilities.

g. The task force may solicit and receive grants and other funds that are made available for the task force's purposes by any governmental, public, private, not-for-profit, or for-profit agency, including funds that are made available under any federal or State law, regulation, or program.

h. Within 12 months after the task force's organizational meeting, which is held in accordance with the timeframe specified by subsection c. of this section, the task force shall submit a written report to the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The report shall contain the task force's findings, as well as its recommendations for legislative and other action that may be necessary to address and prevent the abuse, neglect, and financial exploitation of older adults and persons with disabilities. The task force shall dissolve 30 days after it submits the report required by this subsection.

2. This act shall take effect immediately and shall expire on the 30th day after the task force submits its written report pursuant to subsection h. of section 1 of this act.

Approved May 23, 2016.

Appendix B

Narrative of Presentation on External Research

My name is Erin Walker and I am a MSW student at Rutgers, the State University of New Jersey, as well as a Fellow in the School of Social Work's Certificate in Aging and Health. Part of my fellowship requirements is to complete a research project. I was fortunate to be given permission to conduct research and report my findings to the newly-appointed New Jersey Task Force on Abuse Against the Elderly and Disabled as my project. As part of the research, I conducted an external literature review on previous task forces from a variety of states across the US.

A total of nine states were researched and their findings compared. The states included are Colorado, Iowa, Michigan, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, and Tennessee. While each state ranged in the number of recommendations, most states had the same overarching theme for their recommendations. The top three most mentioned recommendations included: 1. law enforcement, prosecutor, and judicial training; 2. identifying educational resources and creating public awareness campaigns; and 3. clarifying the standards for reporting the abuse, neglect or exploitation of an elder or person with a disability across the state.

After gathering all of the recommendations, follow-up phone calls were made to three task force members in each of four states, Colorado, Ohio, Pennsylvania and Tennessee. Members who participated in these follow-up calls included Adult Protective Services (APS) directors, lawyers, state long-term care ombudsmen, and law enforcement.

The states interviewed have started to implement several recommendations. For example, Ohio and Pennsylvania have their county prosecutors attend training on abuse against older adults and people with disabilities. Ohio and Tennessee are working on their law enforcement information technology (IT), to make it easier for officers on patrol to report situations to the appropriate agency as well as have access to a database with information from local and statewide APS offices. Colorado and Tennessee are currently looking into changing criminal statutes to make it easier to prosecute offenders.

Some states have continued to work on public awareness and education. Ohio collaborated with Verizon Wireless on a public awareness campaign with limited success. Tennessee is working to educate bank employees on the signs of financial exploitation and is crafting legislation similar to "Pause Laws" enacted in Delaware and Missouri, which allow banks to freeze transactions seen as exploitation. Colorado requested and was granted funding to help with education

and training for mandatory reporters, law enforcement, and the general public. Ohio and Pennsylvania developed interdisciplinary teams that included long-term care, public guardians, prosecutors' offices, law enforcement and APS.

One subject matter expert contacted was Paul Greenwood, San Diego's Deputy District Attorney. He suggested the New Jersey task force explore connecting with prosecutors and offering training sessions to dispel misconceptions and myths about working with the aging/old adult population. He suggested that roles be clarified so everyone understands boundaries and there is no overstepping of jurisdictions. He believes a clarifying question is, "How can we improve existing legislation and standards to be more cohesive?"

In conclusion, each state reviewed has similar reasons as to why they created a task force and identified similar problems and recommendations. This confirms that the abuse of the elderly and individuals with disabilities is a national problem and developing an effective response a national concern. New Jersey's task force can adopt the recommendations and suggestions of other states and apply them here. In addition, unique recommendations here can be used to inform the work of other states.

Appendix C

Public Laws of 1999, Chapter 8

An Act concerning abandonment of elderly persons or disabled adults and amending P.L. 1989, c.23.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1989, c.23 (C.2C:24-8) is amended to read as follows:

C.2C:24-8 Abandonment, neglect of elderly person, disabled adult; third degree crime.

1. a. A person having a legal duty to care for or who has assumed continuing responsibility for the care of a person 60 years of age or older or a disabled adult, who abandons the elderly person or disabled adult or unreasonably neglects to do or fails to permit to be done any act necessary for the physical or mental health of the elderly person or disabled adult, is guilty of a crime of the third degree. For purposes of this section "abandon" means the willful desertion or forsaking of an elderly person or disabled adult.

b. A person shall not be considered to commit an offense under this section for the sole reason that he provides or permits to be provided nonmedical remedial treatment by spiritual means through prayer alone in lieu of medical care, in accordance with the tenets and practices of the elderly person's or disabled adult's established religious tradition, to an elderly person or disabled adult to whom he has a legal duty to care for or has assumed responsibility for the care of.

c. Nothing in this section shall be construed to preclude or limit the prosecution or conviction for any other offense defined in this code or in any other law of this State.

2. This act shall take effect immediately.

Approved January 25, 1999.

Appendix D

Public Laws of 2009, Chapter 276 (Abridged)

An Act concerning the abuse, neglect and exploitation of vulnerable adults and amending P.L. 1993, c.249.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

2. Section 4 of P.L.1993, c.249 (C.52:27D-409) is amended to read as follows:

C.52:27D-409 Report of suspected abuse, neglect, exploitation.

4. a. (1) A health care professional, law enforcement officer, firefighter, paramedic or emergency medical technician who has reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation shall report the information to the county adult protective services provider.

(2) Any other person who has reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation may report the information to the county adult protective services provider.

b. The report, if possible, shall contain the name and address of the vulnerable adult; the name and address of the caretaker, if any; the nature and possible extent of the vulnerable adult's injury or condition as a result of abuse, neglect or exploitation; and any other information that the person reporting believes may be helpful.

c. A person who reports information pursuant to this act, or provides information concerning the abuse of a vulnerable adult to the county adult protective services provider, or testifies at a grand jury, judicial or administrative proceeding resulting from the report, is immune from civil and criminal liability arising from the report, information, or testimony, unless the person acts in bad faith or with malicious purpose.

d. An employer or any other person shall not take any discriminatory or retaliatory action against an individual who reports abuse, neglect or exploitation pursuant to this act. An employer or any other person shall not discharge, demote or reduce the salary of an employee because the employee reported information in good faith pursuant to this act. A person who violates this subsection is liable for a fine of up to \$1,000.

e. A county adult protective services provider and its employees are immune from criminal and civil liability when acting in the performance of their official duties, unless their conduct is outside the scope of their employment, or constitutes a crime, actual fraud, actual malice, or willful misconduct.

3. This act shall take effect on the 90th day following enactment.

Approved January 17, 2010.

