Cooperative Strategies for Combating Financial Elder/Dependent Adult Abuse

Lisa Lahowe

EXECUTIVE SUMMARY

The oldest "Baby Boomers" will turn 65 in the year 2011. Between 2010 and 2030, the number of people in the U.S. over 65 will triple. Nearly 70% of reports to California's Adult Protective Services (APS) programs are for persons 65 and over. Age-related deficits, which can include dementia, coupled with social isolation and a lifetime of accumulated wealth, make seniors tempting targets for financial exploitation. Financial abuse is emerging as the most prevalent form of abuse perpetrated by others against elders and dependent adults. In Alameda County, 40% of monthly investigations are for financial abuse or neglect, half of which are confirmed.

Recent California legislation that strengthens local response and accountability reflects a rising public consciousness about elder/dependent adult financial abuse. However, no additional funding is available to help counties meet the new mandates. In such times, teamwork that maximizes resources and uses interagency intervention strategies becomes crucial. Santa Clara County's Department of Aging and Adult Services has placed the protection of seniors and dependent adults on center stage. This paper explores Santa Clara County's innovative use of multi-disciplinary and interagency teams, draws comparisons between the two counties, and makes recommendations for Alameda County.

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Introduction

In 2000, 10.6% of Californians were aged 65 and over. By 2020, when the oldest Baby Boomers (born between 1946 and 1964) will turn 74, projections indicate that about 14% of Californians will be elderly. More than 40% of California's Baby Boomers are African American, Asian, or Hispanic.[1] Nearly 70% of reports to California's Adult Protective Services (APS) programs are for persons ages 65 and over. Alameda County had 144,255 people aged 65 and older in 2000.[2] By the year 2030, projections indicate this population could reach over 400,000.[3]

Since 1982, California law has mandated counties (funded by Community Services Block Grants-CSBG) to receive and respond to reports of elder and dependent adult abuse. The 1998 Elder Abuse and Dependent Adult Civil Protection Act broadened counties' responsibility for investigations, created uniform practice and reporting standards, and provided state funding. Adult Protective Services (APS) programs subsequently increased their staff and strengthened their investigative proficiency.

Despite steadily growing demand for services, allocations have actually fallen from a high of $71.8 million in 2000/2001 to the current level of $61.2 million,[4] while statewide reports of alleged abuse have risen 23% since 2000.[5] Counties are on an economic collision course with the burgeoning needs of elder and vulnerable adult populations.

While there are nine types of reportable abuse, statewide data suggest that 25% of investigations completed each month by local APS programs are for the inability to manage finances (self-neglect), and financial abuse by others.[6] Often referred to as the "crime of the 21st century," financial elder and dependent adult abuse, defined by W & I Code 15610.3 as the taking of property for wrongful use or with the intent to defraud, is emerging as the most prevalent form of abuse perpetrated by others. However, it is estimated that only 1 in 100 cases of financial abuse is reported.[7] In Alameda County the data are even more compelling; with 40% of APS investigations completed each month related to allegations of financial abuse or neglect, 50% of which are confirmed.

Because the programs have many clients in common, state funding for APS is also used to support county public guardian programs. Public guardian probate conservatorships protect and manage assets, and care for persons who lack the mental capacity to handle money and/or make health decisions for themselves. Funding has not kept pace with the growth of program needs. Two pieces of legislation, effective January 1, 2007 (AB 1363, Omnibus Conservatorship and Guardianship Reform Act of 2006, and SB 1018, Financial Elder Abuse Reporting Act of 2005), impose new service mandates without additional funding. AB 1363 requires the public guard-

[1] "Building an Aging Agency for the 21st Century," California State Assembly Committee on Aging and Long-Term Care, September 2006

[2] bayareacensus.ca.gov/counties/AlamedaCounty.htm

[3] Public Health and Aging: Trends in Aging—United States and Worldwide, Center for Disease Control

[4] California Adult Protective Services Update, November 2006, California Welfare Directors Association, Protective Services Operations Committee

[5] California Department of Social Services, Data Systems and Survey Design Bureau, October 30, 2006

[6] Adult Protective Services and County Services Block Grant Monthly Statistical Report, 2005-2006, www.cdss.ca.gov/research/SOC242-Adu_436.htm

[7] A Day in the Life of Adult Protective Services—II, Financial Abuse, Protective Services Operations Committee, California Welfare Directors Association, April 2006

ian to apply for probate appointment in specified cases. SB 1018 makes employees of financial institutions mandated reporter's of suspected elder and dependent adult financial abuse. As a result of the new mandated reporters law, Alameda County has seen an astonishing 275% increase in APS reports since December 2006.

Given increased pressures and rising service demand coupled with funding shortfalls, counties are struggling to develop strategies to address a growing need. As this case study illustrates, Santa Clara County uses a variety of innovative team approaches to meet service demands.

Case Study: Santa Clara County

Along with controlling the spread of communicable disease and keeping communities safe from crime, "protecting seniors from abuse" appears in the 2005 Santa Clara County (SCC) Annual Report as of one of five top services in which the county takes greatest pride.[8] This official public recognition attests to the extraordinary level of success and community impact of the Santa Clara County Department of Aging and Adult Services (DAAS).

SCC's APS program manages three specialized multi-disciplinary teams to combat financial elder abuse:

1. FAST (Financial Abuse Specialist Team);
2. FIT (Financial Institutions Team); and
3. EDRT (Elder Death Review Team).

Financial Abuse Specialist Team (FAST)

Nearly 10 years ago DAAS Director, Betty Malks, convened a meeting of key stakeholders that included representatives of the Board of Supervisors and the District Attorney's Office, the County Executive, and the County Counsel. Her goal was to educate influential public officials about financial abuse elder and dependent adults, explore ways that county agencies could work together, and secure top-down fiscal support for her programs. A notable outcome of this planning effort was the SCC Financial Abuse Specialist Team (FAST).

[8] www.sccgov.org/portal/site/scc/menuitem

Several such teams were already operational in California. Recognized by the National Committee for the Prevention of Elder Abuse as a Best Practice Model[9] Los Angeles County's Fiduciary Abuse Specialist Team was the first in California. The Los Angeles FAST team's central purpose was to provide expert consultation from a broad array of private sector experts to APS and the Public Guardian staff in their investigation and management of financial abuse cases.

Launched in May 1999, the SCC FAST design differs from other California FAST teams in two respects. Unlike FAST consultative teams epitomized by the Los Angeles model, membership is limited to county employees, i.e. staff and management of APS, the Public Administrator Guardian/Conservator (PAG/C), County Counsel, and the District Attorney's Office. Also, unlike other FAST teams, the central objective of the SCC FAST is a coordinated response with an added capacity for Super FAST (immediate) response, typically triggered by the report of a "looming predator." Consultations with other disciplines, if needed, are pursued on a case-by-case basis outside of the FAST meetings.

According to the Santa Clara County FAST Protocol,[10] one-third of the 2000 yearly reports to SCC APS are for financial abuse. However, not all financial abuse reports will rise to the level of a FAST case. To establish FAST status, supervisors evaluate reports for signs of imminent danger to assets or person, as well as for the magnitude of the assets that might be at risk. Typical FAST cases are for individuals with multi-million dollar estates.

From inception of a financial abuse/neglect allegation that is designated a FAST case, APS looks at the potential need for probate conservatorship by the PAG/C. APS workers investigating FAST cases generally do not seek alternatives to public conservatorship, such as money management, representative payee arrangements, or identification of a suitable family member or professional private fiduciary.

[9] www.preventelderabuse.org/communities/best

[10] Santa Clara Financial Abuse Specialist Team (FAST) Protocol, October 2005

The strategy is to prepare cases for probate court and, in so doing, create a set of circumstances that APS and PAG/C staff hope will mobilize family or friends into appropriate action. The PAG/C indeed does not file for appointment on every FAST referral. When a case is designated "FAST," and after an APS Worker is assigned, the PAG/C office is notified by fax and a Deputy Public Guardian and an Estate Administrator are assigned. Both will work the case along with the APS Worker. The APS Worker may make an initial visit alone but on subsequent visits may be accompanied by the assigned PAG/C Deputy and/or the Estate Administrator. A Criminal Investigator from the District Attorney's Office (a FAST member) may also accompany the APS Worker on home visits. The PAG/C Estate Administrator will investigate the client's real property holdings and other assets, looking for evidence of abuse or neglect. The PAG/C Deputy can take immediate steps to freeze bank accounts or prevent illegal transfer of real property by exercising authority under California Probate Code §2900. As of October 2006, the SCC FAST had recovered and/or prevented the loss of $150 million in assets through Public Guardian probate conservatorship.

Financial Institutions Team (FIT)

The Financial Institutions Team (FIT) began six years ago as an outgrowth of FAST. At quarterly meetings, APS managers train bank personnel on detecting and reporting elder and dependent adult financial abuse, and they then provide individual case consultation. The APS Manager credits relationships established through FIT to explain the fact that SCC APS did not experience a rise in financial abuse referrals from banks after January 2007 when financial institutions became mandated reporters.

Elder Death Review Team

In 2001, the State of California signed into law SB 333. Effective January 1, 2002, Penal Code Sections 11174.4–11174.9 authorized counties to develop interagency elder death review teams ". . . to assist local agencies in identifying and reviewing suspicious elder deaths and facilitate communication among persons who perform autopsies and the various persons and agencies involved in elder abuse or neglect cases."[11] The law's intent is to improve coordination of services for the elderly and their families through the development of education, prevention, and prosecution strategies. In addition to Santa Clara, Sacramento, San Francisco, Orange, San Diego, Los Angeles, and Kern counties now have elder death review teams.

The SCC Elder Death Review Team (EDRT), established in June 2005 is co-chaired by the APS Program Manager and a Supervising District Attorney. Team members include the Coroner's Office, the District Attorney's office, APS, In-Home Supportive Services, the PAG/C, the Long-Term Care Ombudsman, a geriatrician, law enforcement officers, and the Director of Social Services from the county hospital. The most commonly reviewed case types are recent deaths under investigation. Any EDRT member may identify a case for discussion. In addition to improving communication among agencies serving the elderly and facilitating intervention in elder abuse, the SCC EDRT views its role as contributing to criminal investigations that may lead to prosecution. EDRT members have observed that financial abuse is often an underlying contributor to the physical abuse or neglect that led to the elder's death.

Applicability to Alameda County

Alameda County is slightly smaller than Santa Clara County, (1.5 vs. 1.7 million residents), has a notably higher incidence of poverty (11.8% vs. 8.3%), lower median home values ($303,100 vs. $446,400), and fewer persons over age 65 (144,255 vs. 169,440)[12] Santa Clara County Social Services $600 million budget, however, is comparable to Alameda County's. Aging and adult services departments in the two counties are nearly identical in staffing size with 227 positions in SCC compared with Alameda County's 229 positions. There are significant differences, however, between the two counties in numbers of APS

[11] California Penal Code Section 11174.5, www.leginfo.ca.gov

[12] http:quickfacts.census.gov; www.bayareacensus.ca.gov

and Public Guardian staff and in numbers of abuse reports. The SCC DAAS has 24 APS social workers, the equivalent of 16[13] probate deputies, and 10 estate administrators (50 total). Alameda County has 17 APS workers, 9 probate conservators, and 2 estate administrators (28 total). Furthermore, and despite smaller staff numbers, Alameda County APS receives 130% more abuse reports per month than SCC (on average about 450 vs. 200 per month).[14] Considering the staffing differences and the more than double service demand in Alameda County, replicating the SCC FAST design with its concentrated initial team approach is not feasible.

Alameda County's year-old FAST is a consultative model that includes non-county members such as bank investigators, law enforcement, and a foreclosure expert. The team has been highly effective: $2.6 million was saved or recovered in the first 8 months as a result of FAST teamwork. The FAST Coordinator trains local banks in detecting and reporting suspected financial abuse. Inclusion of banks in the FAST and provision of APS training makes a separate group, such as the FIT, unnecessary at this point in time.

Implementation of an elder death review team, on the other hand, has real potential for Alameda County. Several promising connections, in addition to contacts now established with the SCC team through the BASSC internship, have been identified.

A FAST member from the District Attorney's Office, who manages the Alameda County Domestic Violence Death Review Team, is interested in helping to develop an elder death review team. Technical support is also available from the University of California at Irvine (UCI) School of Medicine Geriatric Program's Center of Excellence in Elder Abuse and Neglect. Funded by the Archstone Foundation, UCI will provide free teleconference consultation on elder death review team development.

Recommendations

Alameda County Adult and Aging Services should take a leadership role as follows:

1. Develop a strategic plan to expand Alameda County's capacity for response to elder and dependent adult abuse and neglect that will build on existing interagency partnerships and forge new connections.
2. Develop an Alameda County elder death review team to take the next step in coordination of agencies that prevent, stop, and prosecute elder abuse and neglect.

Cost Implications

Dedicated professional and support staff, such as a Management Analyst and an Administrative Assistant, will be required, particularly for the planning effort. Management Analyst and Administrative Assistant salaries plus benefits are $116,187 and $78,816 respectively, for a total cost of $195,003. An Analyst can lead a time-specific strategic planning process, develop workplans for implementation of planning recommendations, and maximize the Department of Adult and Aging Services' resource utilization and operational effectiveness. An Administrative Assistant can provide staff support both to the Analyst and to the Elder Death Review Team.

[13]Deputies handle both probate and mental health conservatorships. For comparison's sake only half of the 33 deputy positions are counted as probate.

[14]Adult Protective Services and County Services Block Grant Monthly Statistical Report, 05-06

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