

# THE ELDER JUSTICE COALITION

A NATIONAL ADVOCACY VOICE FOR ELDER JUSTICE IN AMERICA  
JOHN B. BREAUX, HONORARY CHAIR ♦ ROBERT B. BLANCATO, NATIONAL COORDINATOR

**Elder Rights and Elder Justice  
OAA Reauthorization Listening Forum  
Administration on Aging  
Bob Blancato  
National Coordinator, Elder Justice Coalition  
February 25, 2010**

Assistant Secretary Greenlee:

Thank you for convening these forums and for allowing issues of elder justice and elder rights to have a priority. I am pleased to be the National Coordinator of the non partisan 614 member Elder Justice Coalition and I am pleased to share some very early thoughts on the 2011 reauthorization of the Older Americans Act. Let me note, from the outset that I received important input from a number of key groups in our coalition. I would like to give special thanks to the National Adult Protective Services Association, National Academy of Elder Law Attorneys, American Psychological Association and the National Senior Citizens Law Center.

One issue which has gained visibility and attention since the last Older Americans Act reauthorization in 2006 is elder justice. This forum is being held on same day when many elder justice advocates await the outcome of President Obama's health care summit and the legislative steps that will follow. We commend the inclusion of the bipartisan Elder Justice Act (EJA) in the President's Health Care Reform Proposal released earlier this week. It provides an important level of confidence that should health care reform legislation pass, it will include the EJA since it is already in the Senate passed bill. We also note the importance of the inclusion of the Patient Safety and Abuse Prevention Act in his proposal and in both the House and Senate health care bills.

I especially wish to commend Assistant Secretary Greenlee for her commitment to elder justice. To me, it is no coincidence that for the first time in the seven year history of the EJA, an Administration has provided support. If the EJA does pass in 2010, it will have important benefits for the aging network and will represent the most comprehensive federal commitment to elder abuse prevention in history:

- A first time dedicated funding stream for Adult Protective Services (APS) which include the more than 30 states where the State Unit on Aging operates APS.
- In addition, APS will be provided a home within HHS under the discretion of the Secretary. This will address in a real way the federal leadership gap which has plagued APS. Whether AoA should be the home for APS is an extremely important consideration and future advocacy issue.
- The EJA will also provide important new resources to the long term care ombudsman program authorized under Title VII of the OAA.

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- An Elder Justice Coordinating Council will be established to provide a more comprehensive and coordinated federal commitment to fighting elder abuse, neglect and exploitation. We hope that AoA can be in a distinct role on this Council.
- Varieties of new grants to foster improved training to those who work with seniors to help them better detect and report elder abuse. These grants could and should include all our aging network programs.

The outcome of the EJA in 2010 will certainly impact all future discussions on Title VII reauthorization in 2011. Of course, should the EJA not become law in 2010 then the reauthorization takes on greater significance as it relates to elder justice and elder rights. How do we extract important and germane provisions from the EJA into the reauthorization? This combined with building on the elder justice provisions from the 2006 amendments could make a strong Title VII package.

Let me offer some general thoughts on the 2011 reauthorization:

- The signature outcome of this reauthorization should be to further empower through authority and resources, the aging network's distinct role in providing home and community based services including those tied to elder rights and elder justice and including the rights of residents of long term care facilities, who we must not forget are a part of our communities.
- Since Title VII is considered one of the core services, it must come out stronger from this reauthorization.
- Is it stronger as a separate title or would it do better under a stronger Title III where a mandate to better integrate Title VII services could be achieved?
- Are all definitions accurate and still relevant for the times?
- Does this network fully appreciate and understand the programs, services and people in elder abuse prevention and legal services and their special commitment to the elderly poor and often the most vulnerable?
- Do we need new language and provisions or just commit to provisions in existing law such as requiring states to develop a comprehensive approach in developing and maintaining elder rights programs? This point was raised by Becky Kurtz in Dallas. She urged that elder rights services need to be more directly integrated into state and area plans.
- The critical elements of education, raising public awareness and training in elder abuse prevention belong in our major service programs.

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- In nutrition, it can be part of education and information provided at congregate sites and training for home delivered meal providers on how to detect and report abuse if they confront it.
- As was proposed in the National Summit on Elder Abuse, could the family caregiver program promote the development of abuse sensitive services for caregivers as their numbers and challenges continue to increase?
- Have we leveraged all the support we can in raising public awareness about elder abuse whether from national organizations, corporations and/or faith based groups?
- A Title VII that is more integrated into the rest of the OAA helps achieve one important outcome, more and better detection and reporting of elder abuse.
- With elder abuse, you cannot stop what you don't report. We need better data collection. The lack of reliable data on incidence of elder abuse makes it impossible to estimate demand for services and in turn staffing needs, costs and patterns. It is time for ASPE to release its feasibility study on ways to improve data collection so some of its recommendations can be ready for the reauthorization. Data drives dollars and if it is not good data, it drives dollars away.
- Cultural sensitivity in the provision of elder rights services must be given greater attention over the next five years as the increase in minority elders continues. We need to consider the disparity in the quality of care and access to services for low-income and minority elders (both those receiving community based services and those in long term care facilities.) Have the services or information about the services been adapted at all to meet their unique linguistic and cultural needs?

Let me move to some of the questions we were asked to consider:

## **1) Is the aging network the right place for adult protective services?**

This should first be looked at in terms of what gets us the federal leadership APS lacks today? The overriding reality is that APS, despite its critical first responder role in elder abuse prevention lacks visibility and is underfunded in part, due to the lack of federal leadership. This is a critical and overarching issue. I, like many other advocates are heartened that Senator Kohl asked for a GAO study on the challenges facing APS. This report expected to be released in November 2010 should be helpful to the reauthorization process and/or to the implementation of the EJA.

We need more studies. A focused AoA evaluation might also be worthwhile to specifically address the question of the future role of the entire aging network in administering APS services and assessing what has and has not worked and why. There are some fundamental issues that need

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to be considered starting with a complete look at how the network currently interacts with the APS world. This would be a good starting point.

How do you serve the 18-59 age population that is included in the APS mandate? An example of this precedent in the history of the OAA of serving those under 60 is in Title V. This is a far more complex question to resolve.

What kind of capacity building and training would be needed? There would have to be new investment in capacity building for the network should it be the new home for APS.

Would a new group of clients get priority for other services? If you introduce a whole new group of clients/participants from the ranks of APS into the OAA should they be added to the targeting requirements so they receive priority attention for aging services they urgently need?

How would we ensure that both the ombudsman program and the APS programs would function independently under their own mandates, yet be integrated within the aging network to provide the best services for older adults?

How do you achieve recognition within the aging network that APS deals with many non-aging agencies especially in law enforcement and criminal justice more so than the network does?

How do you ensure the independence of both the ombudsman and the APS programs and their ability to protect client interests when state laws and the location of these programs vary?

How do you resolve data system differences?

## **2) Is the ombudsman program doing what it should and in manner it should?**

You have and will hear from some great ombudsman advocates, but a couple questions come to mind:

- Have we addressed the IOM recommendations related to having enough ombudsmen per nursing home bed?
- And what about assisted living which has grown so extensively?
- Are we collecting the data needed to evaluate the quantity and quality of services this program provides?
- As a program designed to act independently, is it truly advocating at all levels for the best interests of long-term care residents? Is there interference with their advocacy by other parts of the government?

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- Could AOA play a stronger role in making sure that this program has the support it needs, from within its own programs and from other programs? Is there a role for Title V in staffing or the Corporation for National Service? Should Medicare and Medicaid chip in to pay for the ombudsman program?

### **3) What specific program components are needed in elder rights or elder abuse protections that are necessary for effectiveness other than money? If it is not about new money can it be about reallocation of existing funds?**

- We need better and more consistent data collection going forward.
- We need to closely examine whether these services are being provided in the most culturally appropriate ways possible including training in cultural issues associated with abuse. We need more focus on translational elder abuse research in areas related to variables that give rise to abusive situations, safeguards to put in place to prevent abuse and most effective treatments. Ideally some of this and other research can be translated into improving the day to day workings of Title VII.

Greater accessibility to mental and behavioral health services for older adults who are at risk of or have been victims of elder abuse. This needs no new authority as it was provided in the 2006 amendments.

The National Center on Elder Abuse should be made a permanent and genuine public private partnership by allowing innovative foundations, corporations and even enlightened private citizens to support the work. This new partnership could focus on producing direct outcomes that benefit the entire elder abuse prevention field. Likewise, the National Education and Resource Center on Women and Retirement Planning should be made permanent with the additional resources to help protect older adults from financial ruin and exploitation.

### **4) What is the role of network in guardianship?**

This is a very complex issue that warrants a great deal more consideration. Clearly within Title VII more work could be done on educating the public about guardianship and we should examine whether the legal service programs under the OAA should be more involved to prevent guardianship abuse.

### **5) Should there be more coordination or integration of legal, pension, counseling, enhanced I&R and benefits counseling?**

The short answer to this is of course yes. In this era of constrained resources, duplication and fragmentation of any service is an unaffordable mistake. Conversely coordination, integration and simplification of services with a focus on person-centered makes smart economic sense and can be the key to sustainability. The I&R function has grown in importance in recent years in some

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measure due to the economic downturn. People need information about programs and services as never before. One hopes that the expansion of ADRs can facilitate the accomplishment of better coordination and integration of the services mentioned in the question. Individual programs operating in individual silos does not constitute a system and when it comes to counseling and enhanced I&R service a coordinated system is far better.

## **6) What are the next steps needed in preventing and guarding against fraud, waste and abuse? Is it in the broader arena of consumer protection? Should it be part of aging network or FTC or something else?**

- Let's begin with the premise that all steps that the federal government can take it should because the criminal element perpetrating these crimes is not stopping. We live in the world of the scam de jour.
- One might hope that the passage of the Elder Justice Act and its Coordinating Council could lead to some degree of coordination at the federal level for programs that may exist in Justice or FTC along with those in HHS.
- In some instances, the agency's jurisdiction may make it more effective against certain kinds of fraud and abuse but what is important is information sharing between agencies.
- One additional and exciting new possibility could rest if Congress completes action on a Financial Regulatory Reform bill and follows the President's recommendation for a strong consumer agency within. I am hopeful that the final bill will contain an amendment authored by Rep. Patrick Murphy of Pennsylvania to create the Office of Financial Protection for Older Adults. Its intent is to help seniors learn how to protect themselves from financial exploitation, improve coordination among law enforcement agencies and strengthen prevention efforts to prevent abuse in the first place.

Although we are supposed to look beyond funding, this is especially hard to do with Title VII (5 programs authorize only 2 funded with total funding of just over \$21 million nationally over an 18 year history.) How can a commitment to elder rights and elder justice be made with this paltry sum of money? Beyond what might be done with any changes to the authorizing language for Title VII, there needs to be a consistent and sustained advocacy effort to boost Title VII funding over the next few years. The responsibility rests with everyone who is here from leadership within the Administration to our network of advocacy groups.

Title VII's purposes are as relevant today as they were when Congress established the program in 1992. It is time to give the program the valuable services it provides and the dedicated people who provide it with the resources they need to do their job. It is a fact: a

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victim of elder abuse is never the same after the abuse. Helping victims and preventing future victims is as compelling an issue as we have.

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