

EXECUTIVE SUMMARY: “A MULTI-SITE ASSESSMENT OF FIVE COURT-FOCUSED ELDER ABUSE INITIATIVES”

Brief Description of Project and Initiatives

Researchers from the American Bar Association Commission on Law and Aging and the University of Kentucky College of Public Health/Department of Gerontology assessed the five court-focused elder abuse initiatives in existence when the study began. As the initiatives varied in their purpose and structure, we coined that term to describe them generally. We defined the term to mean either (1) a court or a court-based program or (2) a program conducted in partnership with a court, both of which serve victims or potential victims of elder abuse. The five initiatives included:

- The “Elder Protection Court” (EPC) in Alameda County, California, is a special civil and criminal docket for elder abuse cases, including elder abuse protection order cases, in the Superior Court of Alameda County.
- The “Elder Justice Center” (EJC) in Hillsborough County, Florida, is a program of the 13th Judicial Circuit Court that provides residents aged 60 and older with assistance—but not legal advice—in completing court documents, such as applications for protective orders, referrals to legal and social services programs in the community, and case management services in guardianship matters. The EJC staff also monitor guardianship cases. They act as advocates for older crime victims and, if desired by the victim, can help older criminal defendants by providing referrals to diversionary programs such as mental health or substance abuse treatment programs.
- The “In-Home Emergency Protective Order Initiative” (IEPOI) in Jefferson County, Kentucky, helps medically fragile/homebound victims of abuse aged 60 and older to obtain emergency protective orders and longer-term domestic violence orders by telephone without having to leave their home. The initiative is a partnership of several agencies: ElderServe, Inc., a nonprofit provider of aging services that administers the initiative; the Circuit Court Clerk’s office; the Family Court; the county’s adult protective services (APS) office, and the Jefferson County Sheriff’s office.
- The “Elder Temporary Order of Protection” Initiative (ETOP) in Kings County, New York, is sponsored by the New York City Family Justice Center in Brooklyn. The initiative assists eligible victims of domestic violence who are 60 or older and unable to travel and appear in court personally or for whom it is a great hardship due to infirmity or disability in obtaining temporary orders of protection. Social workers and lawyers from the New York City Department for the Aging and the Jewish Association for Services for the Aged Legal/Social Work Elder Abuse Program are available to provide emergency counseling, direct services, and other information regarding services for the elderly. The Family Court and its Clerk’s Office also play significant roles in the initiative.
- The “Elder Justice Center” (EJC) in Palm Beach County, Florida, is a program of the Board of County Commissioners of Palm Beach County, Florida. It is housed in the main courthouse of the 15th Judicial Circuit Court. The EJC helps residents aged 60 and older who are arrested for certain crimes, are involved in guardianship proceedings, or who need other assistance with court-related matters. The program

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provides assistance—but not legal advice—in completing court documents such as applications for protective orders or other forms, guardianship investigations or monitoring upon request of the probate judge, referrals to legal and social services programs in the community, and accompaniment to civil and criminal hearings. In certain criminal cases, the EJC seeks to identify older criminal defendants who may have dementia or other cognitive problems and provide information to the court so that it can make informed decisions about diverting defendants from jail into mental health or substance abuse treatment programs.

Purpose and Goal

Our purpose was to examine how these initiatives handle elder abuse cases and to determine whether they improve the criminal justice response to elder abuse. Our goal was to provide judges, court administrators, policymakers, and funders with evidence-based knowledge about the structure, process, and outcomes of these initiatives so that they can make informed decisions about whether they should support similar initiatives in their communities.

Methods

A six-member multidisciplinary advisory committee composed of experts representing the judiciary, court administration, prosecution, law enforcement, and APS guided us as we:

- collected and reviewed salient research literature;
- identified and surveyed a key informant from each initiative to learn more about the initiative’s history and processes;
- used the snowball sampling technique to identify key stakeholders from an array of disciplines, including the judiciary, court administration, prosecution, public defenders, legal aid lawyers, private practitioners in elder law and criminal defense, long-term care ombudsmen, aging services, domestic/family violence services, and victims;
- developed four question sets for stakeholder interviews;
- created a case file review sheet;
- conducted five site visits during which we interviewed 92 stakeholders, including three victims, and reviewed 68 court case files;
- coded and analyzed stakeholder interview and court case file data; and
- developed findings and arrived at conclusions.

With input from our advisory committee members and National Institute of Justice (NIJ) grant manager, we developed six data collection instruments. These included:

- an 84-question Internet survey for key informants;
- a general set of 39 questions used for a majority of the key stakeholders;
- a truncated set of 31 questions used for judges not directly involved in the initiatives;
- a truncated set of 18 questions used for the courts’ chief judges;

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- a completely different six-question set used for victims of elder abuse; and
- a court case file review sheet that collected information on victim demographics and characteristics, perpetrator demographics and characteristics, specific charges, and case resolution, and that was used to ensure that the researchers consistently assessed the court case files.

The University of Kentucky Institutional Review Board (IRB) reviewed and approved our key stakeholder interview questions and informed consent documents. The interview questions were quickly and easily approved by the IRB and the NIJ human subjects protection officer. The consent document proved more complicated, however. Ultimately, we obtained approval for two consent documents. The first was for all stakeholders. The second was for victims. It informed them of the conflict that we faced between our legal obligation to report suspected elder abuse in some of the states we were studying and the Department of Justice’s confidentiality regulations, the implications of being the subject of a report to APS, the possibility that such a report might result in law enforcement involvement and criminal prosecution of the abuser, and their right to decide whether to authorize us to make a report if they told us that they were currently experiencing elder abuse.

We conducted pre-arranged visits of two to three days duration at each of the five study sites. During those visits (or shortly thereafter by telephone if a stakeholder was not available during the visit) we interviewed 92 key stakeholders—89 professionals and three victims. We reviewed 68 court case files that had been closed during a common one-year period (June 1, 2007, to May 30, 2008) that we selected based on input from the key informants. In Alameda County we also observed EPC proceedings.

All interviews were tape recorded, transcribed, and analyzed in detail by the two researchers according to standard qualitative methods. Data from the court case file reviews were coded, entered into a spreadsheet, and analyzed using descriptive statistics.

Results

In 1995 an American Bar Association (ABA) study demonstrated substantial support for these suppositions: (1) some incidents of elder abuse that should be considered by the courts are not being tried because of a variety of barriers (attitudinal barriers held by victims about the courts and the pursuit of legal remedies and systemic barriers in or related to the courts); and (2) cases involving elder abuse that are considered by the judicial system could be handled more effectively in many instances (Stiegel 1995).

As part of that study, the ABA developed *Recommended Guidelines for State Courts Handling Cases Involving Elder Abuse* (hereafter “guidelines”) (Stiegel 1995). Subsequently, researchers at Florida International University (FIU) created recommendations for adapting the U.S. Department of Justice Bureau of Justice Assistance’s *Trial Court Performance Standards with Commentary* (Bureau of Justice Assistance 1997) to an aging society in three contexts: guardianship, self-service, and criminal cases involving elder abuse and domestic violence (hereafter “standards”) (Rothman, Dunlop, and Seff 2006).

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The five court-focused elder abuse initiatives were implemented to address some of the barriers identified by the ABA in 1995. The ABA guidelines and FIU standards formed the theoretical foundation of our study and guided our plan to assess the five initiatives.

Overall, the five initiatives accomplished 87.5% of the relevant ABA recommended guidelines (21/24) and 100% of the FIU standards (15/15). Specifically, we found that:

- Each of the initiatives enhances access to justice for elder abuse victims, albeit in varying ways and to varying degrees.
 - Victims are provided accommodations either in getting to court or in dealing with the court process by each of the initiatives.
 - At all of the study sites—including the EJC in Palm Beach County, which provides services to elder abuse victims, as well as help to older criminal defendants—victims receive emotional support, guidance in understanding and maneuvering through the court process, and other forms of help including linkages or referrals to other services.
 - Access to justice is enhanced in all of the initiatives because the judges and court staff involved in them become more knowledgeable about elder abuse and sensitive to the challenges that victims face in pursuing justice. Also, the court’s increased focus on elder abuse through its involvement in the initiative often has an auxiliary effect of informing other judges and court staff about elder abuse.
 - Access to justice is enhanced in all of the initiatives because the prosecutors and their investigators, public defenders and criminal defense lawyers, civil lawyers, law enforcement officers, social workers, and others involved in the initiatives also become more knowledgeable about elder abuse and sensitive to the challenges that victims face in pursuing justice.
 - Most stakeholders believed that more elder abuse cases are heard by the court as a result of the initiative even though there were no data at any initiative to support that supposition.
- Each of the initiatives acts to preserve or enhance victim safety in one or more ways. Efforts to determine whether an abusive situation has stopped or whether a perpetrator has been held accountable could be strengthened, however.
- Each of the initiatives links or refers elder abuse victims (and sometimes other older persons in court on other matters) to other services in their communities.
- Each of the initiatives fosters or could foster prosecution of elder abuse cases in one or more ways, including enhancing judicial awareness of elder abuse, helping victims obtain orders of protection, and detecting abuse by guardians.
- Accommodations or assistance provided by the initiatives appears to expedite court proceedings.
- As delays in court proceedings are often especially detrimental to elder abuse victims, the initiatives attempt to prevent or minimize them.
- Despite the fact that multiple courts/court divisions may hear elder abuse cases involving the same parties, none of the initiatives fully addresses the issue of intra-court coordination.

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- Each initiative poses the possibility of conflicts of interest or other ethical problems. None are insurmountable, but they are issues that should be considered thoughtfully and continually by the initiatives and any communities that seek to replicate them.
- Only in Alameda County is the court providing leadership in the community on the subject of elder abuse. It does this by sponsoring an Elder Access Committee, similar to the family violence coordinating councils that courts lead across the nation. The juxtaposition in stakeholder support between the EPC and the other initiatives seems to demonstrate that judicial leadership, or at least a strong relationship between the court and the elder abuse stakeholders, is essential to an initiative’s success.
- Although there are no data to support their beliefs, stakeholders consistently suggested that by simply existing and placing some focus on elder abuse, each initiative enhanced both professional and public awareness about the problem and the court’s role in addressing it. For those initiatives that were involved in criminal cases, stakeholders suggested that an additional result was greater professional and public awareness of the criminal justice system’s involvement in elder abuse cases.
- Each of the initiatives had experienced significant transitions when key staff resigned, retired, or been reassigned. We were particularly curious about whether any of the initiatives had taken steps to institutionalize their efforts or whether stakeholders had any thoughts on how to accomplish that goal. Stakeholders suggested it is imperative to:
 - have ongoing support from and collaboration with the chief judge and court administrators, as well as other judges who have a high level of clout and credibility with their colleagues on the court;
 - have the support of key stakeholders from agencies outside of the court to address problems as they occur and help protect the initiative from being discontinued due to budget cuts or other reasons;
 - plan for transitions of significant staff and try to identify and groom successors before those transitions occur;
 - ideally, obtain a secure and stable source of funding; and
 - most importantly, have the initiative become indispensable to the court and community by fulfilling a critical responsibility of the court (such as monitoring guardianship cases).
- The initiatives do almost nothing to self-assess their impact and outcomes. They need to strengthen evaluation and data collection efforts to be able to provide evidence of the benefit that they deliver to the courts and to elder abuse victims.

Implications of Our Research

Even in the absence of statistical data to support the many suppositions of the stakeholders about the benefits of their initiatives, we found their consistency—across the individual initiatives and across all five—to be compelling. It is telling that, as mentioned earlier, overall the five initiatives address and effectuate to some extent 87.5% of the relevant ABA recommended guidelines (21/24) and 100% of the FIU standards (15/15). There were issues and challenges at each initiative that they should address and that communities interested in replicating or adapting these ideas should consider, but we are convinced that each initiative

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does far more to effectuate the goals of the ABA guidelines and the FIU standards than do courts and communities without court-focused elder abuse initiatives.

We believe that the initiatives, to varying degrees, do improve courts’ handling of cases involving elder abuse. We also believe that they do, directly or indirectly, foster improvements in the criminal justice response to elder abuse. Each of them enhances access to justice for elder abuse victims and helps protect their safety and prevent additional harm. Given the extent of elder abuse now, its anticipated growth, and the devastating effects that victims experience, these are clearly worthy goals. Judges, court administrators, service providers, policymakers, and funders in other communities should give serious consideration to supporting implementation of similar efforts, even in these times of limited resources. The five initiatives already demonstrate that these endeavors can be accomplished successfully with limited financial support, although it is obvious that they could accomplish much more if they had adequate resources.

The dearth of evaluation and the significant weaknesses in data collection pose real challenges to efforts to continue the existing initiatives and to replicate them in other communities. Policymakers and funders increasingly demand evidence that programs work and that money will be well invested. Especially in difficult economic climates, programs face great risk if they are unable to provide such evidence or to demonstrate that they will provide data for an evaluation of outcomes and impact.

Recommendations for Future Research

1. There Are Opportunities for Future Research on Court-Focused Elder Abuse Initiatives

Limitations of our study—including the snowball identification technique that may have excluded stakeholders with less positive things to say about the initiative, the unanticipated reluctance of some stakeholders (often law enforcement officers) to be tape recorded, and the small number of victims interviewed—provide ideas for conducting additional, deeper research on these five initiatives. It would also be informative to assess how these initiatives change over time, as they gain more experience, develop more data, and, particularly, as individuals who helped to establish them retire or change jobs.

As similar initiatives are established in other communities (there is now another EPC in Contra Costa County, California), comparative analyses would be enlightening. We were able to make some comparisons between the two elder justice centers despite their differences and the two more comparable elder protection order initiatives. However, as we only learned of the ETOP in Kings County a few days before our grant proposal was due, we may have missed some opportunities comparison with the IEPOI in Jefferson County.

Having learned about the lack of evaluation and data collection by the initiatives through this assessment, it may be feasible to prospectively design an evaluative approach that addresses and accommodates that challenge.

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2. More Thinking Is Required About Balancing the Need to Protect Human Subjects with the Need to Learn from Elder Abuse Victims

Having advocated for and worked with vulnerable older adults throughout our careers, we appreciate the need to protect human subjects from research that may harm them physically or have other negative consequences. At the same time, we stress that it is critical to learn from elder abuse victims about the effect of interventions such as the five initiatives we studied. The difficulties we experienced in obtaining approvals from the University of Kentucky IRB and the NIJ human subjects protection officer for our consent form in relation to victims nearly forced us to drop our plan to interview victims. The staff at the university and at NIJ were doing their jobs and we do not attribute the problems we had to them. We are not the only elder abuse researchers to have this experience; others have spent much more time addressing this challenge and had more of their research plan at risk than we did. Recognizing the importance of addressing this challenge, the National Research Council’s Panel to Review Risk and Prevalence of Elder Abuse and Neglect included a background paper on research issues in its seminal report. We join these other researchers and writers in calling for policymakers to give more thought to finding better ways to balance the need to protect elder abuse victims from research-related harm with the need to learn from their experiences.

3. We Need to Change the Culture of the Courts About Evaluation and Data Collection

One of our advisory committee members, the Honorable John Conery, opining that our finding about the need for evaluation and data collection by the courts involved with these initiatives was critically important, said “How do we address and teach the importance of that issue when all judges want to do is ‘get the job done’?” We think his question presents an excellent recommendation—not really as an issue to research (although certainly one could research how to do what he suggests), but rather as an issue that must be addressed to enable important court-related research. Ironically, the current economic climate might act as an incentive for courts to change their culture on this issue. Recent efforts by state judiciaries and bar associations to combat devastating budget cuts seemed to have had more traction with legislators when the judicial and bar leaders were able to provide data-driven evidence of the impact that such cuts would have on litigants, as well as on stakeholders, such as governments and businesses. This lesson may bode well for evaluation and data collection on other issues relevant to the courts, including access to justice for victims of abuse.

We recognize that the elder focused court initiatives do collect some data, which is highly important. We do not wish to diminish their efforts. However, the information that they do gather is administrative in nature (e.g., clients served, actions taken), and it is not necessarily useful for various types of research or evaluation that may need to be gathered later in the life of a program, especially when funders emphasize outcomes of intervention. In the best scenario, it is important for the initiatives to gather both types of data (administrative and research) from the inception of each program in order to facilitate examinations that can and should include baseline data. In addition, gathering such information at the outset and purposefully would facilitate rigor in both cross-sectional and longitudinal study designs.

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We are not stressing that programs gather “the world” of information that is possible. Rather, we suggest that the existing initiatives—as well as those that develop in the future—be deliberative and proactive about data collection. Doing so would help the programs progress more effectively for the courts and for the individuals most affected, the victims and their families. The added benefit is that greater rigor in data collection helps ensure the long-term viability of the initiative, as well as permit comparisons across initiatives throughout the country.

Conclusions

Our thorough examination of the five court-focused initiatives reveals that they are conducting important and cutting-edge work to improve the response of the judicial system to elder abuse victims and, in one community, to older criminal defendants with mental impairments. On a systemic level, each initiative improves handling of elder abuse cases and enhances the response to elder abuse by the judicial system. At the level of the individual, victims and the professionals serving them indicated that they have a more positive interface with each other and with the system. Concomitantly, the professionals involved in the initiatives report that the initiatives either have a positive or neutral impact on their agencies. The initiatives project a positive image of the courts to the public, important in an era of service scrutiny and budget retrenchment.

Similarly, four of the initiatives stand to benefit greatly from stronger judicial leadership in the community’s response to elder abuse. This leadership would enhance the overall response to elder abuse, but it would also raise the visibility of the initiatives in the community, increase and encourage stakeholder buy-in, and improve the overall stability and sustainability of each initiative. Such leadership is, admittedly, time consuming and especially challenging in an economic climate in which budget cutbacks have resulted in reductions in and furloughs of court staff. Nonetheless, given that the stakeholders in each community reported that their initiative had made the court function more effectively and expeditiously, the investment in judicial leadership seems worthwhile.

As stressed above, it is critical to be able to demonstrate the benefits and long-term viability of the work of the initiatives. Demonstrable efforts must be evaluated by rigorous data collection and subsequent evaluation. Not only will these efforts improve the functioning of the initiatives, but also they will increase the likelihood of long-term sustainability and success.

The five court-focused initiatives addressing elder abuse are models worthy of increased study, particularly an evaluation of programmatic outcomes. They are justifiable and replicable efforts by the courts to address the increasing and vexing problem of elder abuse. In an era in which the number of older adults is growing at an unprecedented rate, the extent of elder abuse is increasing, and interventions involving the judicial system are used more regularly, the work of these five initiatives is innovative, timely, and worthy of replication.