

Introduction

It is an honor to again present testimony to the Elder Justice Coordinating Council on behalf of the Elder Justice Coalition. I recall presenting at its very first meeting in October 2012. I commend the leadership of the Administration for Community Living and the Department of Justice in keeping this Council active and impactful. The EJCC remains one of the main accomplishments of the Elder Justice Act (EJA). The Council's premise was simple—get all the federal agencies who are doing work of any kind in elder abuse prevention together to emerge with a more coordinated federal approach and response. That is what has happened over three different Administrations. And, I am pleased to note that the bills introduced so far to reauthorize the EJA have all included continuation of the EJCC.

The Elder Justice Coalition is a non-partisan 3000-member group dedicated to advancing elder justice policy at the federal level, whether through passage and implementation of legislation or through regulatory action. We were established in 2003 at the time the first Elder Justice Act was introduced. Many of our members provide direct services to elder abuse victims, such as the National Adult Protective Services Association and the National Association of State Long-Term Care Ombudsmen, or provide public outreach and advocacy on elder abuse. We are proud over our history to have been a resource to Congress, the Administration, the media and the public.

In your letter of invitation you asked me to offer my thoughts on the reauthorization of the EJA. It is imperative that this landmark law be renewed and modernized in this Congress. The opportunity is still there.

Funding Concerns

Before I turn to the reauthorization, I would also like to focus on an even more urgent matter, funding for the EJA for federal fiscal year (FY) 2023. The Elder Justice Coalition was heartened by Congressional action in the pandemic bills which provided the EJA with unprecedented funding totaling \$376 million for FY 2021 and FY 2022. It was done in direct response to several pandemic-related issues, including the proliferation of scams tied to covid-19 and issues related to access of ombudsmen to nursing homes. The funds were also intended to provide services for victims to recover, prevent other abuse situations and anticipate increased APS investigation caseloads.

These funds were distributed promptly by ACL and used appropriately by APS agencies and ombudsman programs in all 50 states. Some of the uses of this funding by APS programs included:

- Supporting tribal APS programs in meeting growing demands;
- Providing emergency housing including shelters and wrap-around social services for elder abuse victims across the country;

- In Oregon, conducting an equity analysis followed by an equity plan for APS services;
- In West Virginia, providing emergency housing for its APS clients and working with West Virginia hospitals to provide in-home services for APS clients;
- In New York, expanding successful multidisciplinary teams across the state that work to raise awareness on elder abuse prevention at the local level;
- In Illinois, providing temporary housing for clients at risk of contracting covid-19;
- In Arizona, hiring badly needed additional personnel and purchasing vehicles for APS investigations in rural areas;
- In California, purchasing technology to enhance remote work for APS staff.

Some of the uses of this funding by state long-term care ombudsman programs included:

- In several states including in Louisiana and Texas, with shortages of volunteers (who are critical to the ombudsman program), allocating funds to recruit volunteers to improve long-term care resident access to advocates;
- In North Carolina, providing funds for family councils in long-term care facilities;
- In Kansas, developing resident council handbooks.

What has been proposed to date in the Senate for FY 2023 would slash APS funding (\$188 million in FY 2022) by as much as 95 percent from these levels. That will be devastating to APS, especially as we continue to emerge from the pandemic and more cases are expected to be reported. We in the Coalition support a minimum funding level of \$80 million for APS as provided in the bill passed by the House Appropriations Committee. The Coalition also commends President Biden for calling for an almost-doubling of funding for the long-term care ombudsman program to \$36.9 million and we urge Congress to support this level as well in a final FY 2023 funding bill.

The Elder Justice Act: History

Early next year, we will observe the thirteenth anniversary of the signing into law of the EJA. It was a landmark law at the time and its benefits can be seen in the following:

- It included a first-time definition of elder justice in federal law, unifying statutes with undefined references to “elder abuse” and “elder justice.”
- A total of almost \$400 million has been appropriated by Congress for activities previously never funded for elder justice, including the National Adult Maltreatment Reporting System, or NAMRS; Elder Justice Innovation Grants; and a first-time federal home for Adult Protective Services.
- The Council’s formation and work in developing more coordination and initiatives at the federal level on elder abuse prevention.

The road to passage of the Elder Justice Act was long and winding. The original 2003 bill grew out of hearings and related work of Senate Special Committee on Aging. It was the subject of

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numerous hearings in Senate and House, and it passed through the Senate Finance Committee on three separate occasions. Finally, in 2010, it became law as part of the Affordable Care Act. However, its authorization expired at the end of FY 2014. Work to ensure the law's provisions were funded and authorized has been ongoing since its initial passage.

The Importance of the Elder Justice Act: The Numbers

According to the Department of Justice, one in 10 older adults are victims of elder abuse. In terms of reported cases, in 2019, just over 1.3 million reports of abuse, neglect or exploitation were received by Adult Protective Services programs nationwide, of which two-thirds were deemed eligible to investigate.ⁱ

When the first Elder Justice Act was introduced in 2003, the bill contained language stating, "Victims of elder abuse, neglect, and exploitation are not only subject to injury from mistreatment and neglect, they are also 3.1 times more likely to die at an earlier age than expected than elders who were not victims of elder abuse, neglect, and exploitation."ⁱⁱ Further, according to a 2018 National Institute of Justice (NIJ) report, elder abuse victims reported considerably higher rate of first-year depression, general anxiety disorder and poor self-reported health compared to non-victims.ⁱⁱⁱ

The statistics on the impact of financial abuse are especially disturbing when one considers that financial security is necessary for healthy aging. For example, according to the Federal Bureau of Investigation's (FBI) Internet Crime Complaint Center, people over 60 made up the majority of U.S. cybercrime victims in 2019 and accounted for the most losses (\$835 million), an average of nearly \$10,000 per victim.^{iv}

According to the Federal Trade Commission, romance scams alone resulted in victims losing \$139 million in 2020. This scam is especially disturbing because it involves perpetrators seeking out isolated and lonely older adults—a problem made even more severe by the pandemic.^v

The aforementioned NIJ report also looked at the impact of financial mistreatment and found it was also linked to a considerably higher probability of depression, PTSD, generalized anxiety disorder and self-neglect. When the mistreatment was committed by a family member, it was associated with a higher risk of depression.^{vi}

What I have just cited, disturbing as it is, all occurred before the covid-19 pandemic, which has presented a whole range of new realities in the elder abuse and mistreatment space. These numbers are especially high considering that pandemic-necessitated limits on gatherings in person for older adults, such as at senior centers and in healthcare settings, have harmed the ability of outside parties to observe, detect and report elder abuse and neglect.

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For example, a May 2021 FBI report stated that losses from elder fraud jumped by 30 percent nationally in 2020.^{vii} The Federal Trade Commission indicates that older adults lost more than \$100 million to covid-19 related fraud alone in 2020. The most common covid scams included contact tracing scams, virus and antibody test kits, vaccines, and miracle cures.^{viii} The best research we have suggests that for every act of financial exploitation that is brought to the attention of authorities (e.g., law enforcement and APS), 44 acts go unreported. Thus, the actual dollar losses due to financial exploitation are staggering.^x

And this Council is acutely aware of the special tragic impact covid-19 has had in our nursing homes. As of January 31, 2022, more than 200,000 long-term care facility residents and staff have died due to covid-19 and these deaths make up at least 23 percent of all covid-19 deaths in the U.S.^{ix}

The Currently Proposed EJA Reauthorization

In August 2021, the Elder Justice Reauthorization and Modernization Act (EJRMA) was introduced in both chambers of Congress – the most recent version of an Elder Justice Act reauthorization. The House bill, H.R.4969, was authored by House Ways and Means Committee Chair Richard Neal with primary co-sponsor Rep. Suzanne Bonamici, co-chair of the House Elder Justice Caucus. The Senate bill, S.2674, was authored by Sen. Ron Wyden, Chair of the Finance Committee, with primary co-sponsor Sen. Bob Casey, Chairman of the Special Committee on Aging.

The House included the full \$4.1 billion EJRMA in its version of the Build Back Better bill passed in November 2021. However, that legislation as passed by the House was never considered by the Senate.

According to the official section-by-section of the bill, program funding would include:

- \$1.6 billion for post-acute and long-term care worker recruitment and retention;
- \$1.4 billion for APS functions and grant programs;
- \$172.5 million for long-term care ombudsman program grants and training;
- \$500 million for supporting linkages to legal services and medical-legal partnerships (MLPs); and
- \$250 million to address social isolation and loneliness

The EJC believes that the EJRMA is a comprehensive, coordinated and forward-looking bill. It would result in a genuine investment of nearly \$4 billion in an elder justice infrastructure, featuring adult protective services and the long-term care ombudsman program along with the important addition of improved staffing in nursing homes. New additions to elder justice programming include supporting medical legal partnerships and funding directed to area agencies on aging and other community-based organizations to address social isolation and loneliness. We also support the bill's provision of elder justice grants to Indian tribes and tribal organizations.

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For reauthorization to occur in this Congress, it must pass in the Senate either as a free-standing bill or as part of a larger bill and then be reconciled with a House version. Our Coalition is working with Chairman Wyden's staff to try to get this accomplished, but the path is uncertain at the moment. Most indications point to an end-of-year omnibus appropriations bill as the likely vehicle. We are most certainly working on this possibility.

Further, it is vital for the President's FY 2024 budget to contain adequate funding levels for APS and the ombudsman program. We intend to press that case with the Office of Management and the Budget (OMB) in the coming days.

Conclusion

An enduring part of the history of the Elder Justice Act has been the support it has received on a bipartisan basis in Congress. That has carried over to the work of this EJCC, having been started in the Obama Administration, maintained and strengthened in the Trump Administration and now continuing your important work in the Biden Administration. That absolutely needs to continue. How can one even try to rationalize allowing partisanship to interfere with the goal of achieving elder justice by the prevention of elder abuse? Let us never reach that low as a nation.

ⁱ HHS Administration for Community Living, 2019 National Adult Maltreatment Reports Survey. Available at <https://namrs.acl.gov/getattachment/Learning-Resources/Adult-Maltreatment-Reports/2019-Adult-Maltreatment-Report/2019NAMRSReport.pdf.aspx?lang=en-US>

ⁱⁱ H.R. 2490, 108th Congress. Available at <https://www.congress.gov/bill/108th-congress/house-bill/2490/text>

ⁱⁱⁱ Ronald Acierno, "National Elder Mistreatment Survey: 5 Year Follow-up of Victims and Matched Non-Victims." Available at <https://nij.ojp.gov/topics/articles/insights-adverse-effects-elder-abuse>

^{iv} FBI Internet Crime Complaint Center, "2019 Internet Crime Report." Available at https://www.ic3.gov/Media/PDF/AnnualReport/2019_IC3Report.pdf

^v Federal Trade Commission, "Protecting Older Consumers 2020–2021." Available at <https://www.ftc.gov/system/files/documents/reports/protecting-older-consumers-2020-2021-report-federal-trade-commission/protecting-older-consumers-report-508.pdf>

^{vi} See footnote 4.

^{vii} FBI Internet Crime Complaint Center, "2020 Internet Crime Report." Available at https://www.ic3.gov/Media/PDF/AnnualReport/2020_IC3ElderFraudReport.pdf

^{viii} United States Senate Special Committee on Aging, "Fraud Book." Available at <https://www.aging.senate.gov/imo/media/doc/Fraud%20Book%202021.pdf>

^{ix} Kaiser Family Foundation, "Over 200,000 Residents and Staff in Long-Term Care Facilities Have Died From COVID-19." Available at <https://www.kff.org/policy-watch/over-200000-residents-and-staff-in-long-term-care-facilities-have-died-from-covid-19/>