

## ***Coalition for Elder & DisAbility Rights***



August 2, 2019

The Honorable Xavier Becerra  
Department of Justice  
1300 I Street  
Sacramento, CA 95814

Subject: 2020-21 DOJ Budget Request Regarding Elder and Dependent Adult Abuse Reporting & Request to Meet

Dear Attorney General Becerra:

As representatives of 18 senior, disability, civil rights, labor and faith organizations in California, we are writing now, early in your department’s annual budget cycle. We ask to meet with you or your senior staff to discuss what DOJ can do about the urgent problem of senior and disability victimization. This includes the lack of reporting to law enforcement agencies and the law enforcement agencies’ too frequently inadequate response to the reports they do receive.

We are particularly interested in discussing reviving or developing a program similar to Attorney General Lockyer's "Face It, It's a Crime" public information campaign, including reestablishing the statewide reporting hot line that was part of that program, with text and Internet reporting options. The program focused on abuse of seniors and of non-senior adults with disabilities (legally but misleadingly called "dependent adults," despite the fact that many live independently).

The public, law enforcement officers, and even victims and their families too often don't realize that abuse (including neglect and financial abuse) is a crime and not simply a civil or regulatory matter. With the state's fast-increasing senior population and the increasing number of individuals with disabilities including autism and fetal alcohol spectrum disorders, there is an urgent need to address this problem.

Four widely reported national studies found these shocking results:

- *Incidents of Potential Abuse and Neglect at Skilled Nursing Facilities Were Not Always Reported and Investigated* (Office of the Inspector General, U.S. Department of Health and Human Services, June 2019) focused on the possible abuse of nursing home residents who end up in emergency rooms. It looked at claims sent to Medicare in 2016 for treatment of head injuries, body bruises, bed sores and other diagnoses that might indicate physical abuse, sexual abuse or severe neglect. It found that nursing homes failed to report nearly one in five of these cases. Separately, it found that in five states where nursing home inspectors did investigate and substantiate cases of abuse, 97 percent were never reported to law enforcement as required by law.
- *CMS Could Use HHS Medicare Data to Identify Instances of Potential Abuse or Neglect* (Office of the Inspector General, U.S. Department of Health and Human Services, June 2019), looked at Medicare claims for the treatment of potential abuse or neglect of older adults, regardless of where it took place. The data were collected on incidents occurring between January 2015 and June 2017. The report projected that, of more than 30,000 potential cases, health care providers failed to report nearly a third of the incidents to law enforcement.
- *Abuse of People with Disabilities: Victims and Their Families Speak Out* (Spectrum Institute Disability and Abuse Project, 2013) surveyed victims with disabilities, including disabilities caused by aging, and their families. Of the cases where victims reported the abuse to authorities, 52.9 percent said that nothing happened. The number of alleged perpetrators arrested was 7.8 percent, according to the victims and family members surveyed.
- *The True Link Report on Elder Financial Abuse* (True Link Financial Advisers, 2015) surveyed older Americans' family caregivers. It extrapolated that financial abuse costs seniors more than \$36 billion a year, 12 times earlier estimates.

These reports are consistent with our experience here in California. According to many reports we have received, mandated reporters often fail to meet their legal responsibilities to report, perhaps often because of fear of retaliation by their employers if they report and perhaps because of often well-founded beliefs that police will not take their reports seriously and that police will not arrest them for failure to report, even if the police find out about the abuse from other sources.

In San Francisco in June, the Department of Public Health reported that 23 patients of the Laguna Honda Hospital and Rehabilitation Center, ranging in age from 30 to around 100, suffered systematic physical and verbal abuse from 2016 to January 2019 at the hands of six employees who video recorded the abuse and exchanged the videos and photos by text messages. The San Francisco public health director pointed to what he called “a culture of silence” at the facility, where staff turn a blind eye to abuse. We are concerned that such cultures of silence are common in some nursing facilities, particularly those serving residents with mental disabilities such as dementia, mental illness or intellectual disabilities, and that these cultures of silence often originate at the supervisory or management level.

In Southern California, financial abuse is growing faster than any other type of abuse. Statewide, it has risen 176 percent since 2006. (*People Are Ripping Off LA Seniors At Alarming Rate - and It's Making Them Sick*, LAist, June 18, 2019, citing *SOC 242 - Adult Protective Services and County Block Grant Monthly Statistical Report*, California Department of Social Services, June 2019).

Some of us originally made this budget request to you in a letter dated July 28, 2017. Despite a subsequent conference call and several follow up calls and emails over the last two years, we have received no response to that letter. In some of the calls, DOJ staff have reported that they could find no records of the “Face It, It’s a Crime” program beyond what is still on the DOJ web site. We are confident, though, that planning and implementing an information campaign and establishing a hot line are well within the Department of Justice’s capacity given an adequate budget.

We have two specific suggestions for any information campaign and hot line. They are to make it explicit that anonymous reports are accepted and that all reports will be investigated by the Bureau of MediCal Fraud and Elder Abuse or local law enforcement agencies, in cooperation with Adult Protective Services and Local Long Term Care Ombudsman Programs where appropriate.

Thank you for your consideration of our request. We look forward to a response and are available to discuss it further with you or DOJ staff. We also would be very pleased to participate in any media event you might schedule to announce creation of this program. Our email addresses appear with our signatures below so you can respond to all of us.

Sincerely,



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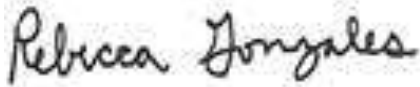
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