

Making VOCA assistance for elderly  
and dependent adult victims of  
financial abuse –  
California's experience

Carol Sewell, MAG

California Commission on Aging,  
California Elder Justice Coalition

FINDINGS AND RECOMMENDATIONS FROM THE  
**California Elder Justice Workgroup**  
**2010 Elder Abuse Summit:**

Financial crimes/exploitation are viewed as  
“LESS SERIOUS” than violent crimes.

California lacks appropriate services for  
elderly/dependent adult financial crime  
victims.

California Victim Compensation funds  
currently go only to victims of violent crime.

## Federal regulations allow:

Victims of Crime Act (VOCA) \$\$ to be used to assist victims of financial crimes.

VOCA regulations identify elders & dependent adults as underserved groups.

Victims may receive compensation without a criminal charge being filed:

- Referral from APS, physician, domestic violence service qualifies a victim for service.

**Strengthening Victim Services in California:  
A Proposal for Consolidation, Coordination, and Victim-  
Centered Leadership**

Report to the Legislature Prepared by the California State and Consumer  
Services Agency Pursuant to AB 2435 (Jackson, Statutes of 2002) Nov. 2003

*Very few services are available to victims of  
financial crimes in California. These victims,  
who are often elderly, have no access to  
compensation to cover their losses or  
counseling, and they face many difficulties in  
receiving restitution from offenders.”*

# **Elderly & Dependent Adult Financial Abuse**

## **Victims need:**

### **Mental health counseling**

- Emotional support
- Suicide prevention
- Breaking the cycle of victimization
  - Peer counseling, relocation

### **Financial counseling**

- Money management
- Intervention with creditors

### **Legal Services**

- Assistance in recovering restitution

# Victims cannot wait for restitution to be awarded

Victims may not want to file charges against a family member or caregiver

Scammers or fraudsters may have vanished or operate online from a foreign country

Attorneys may be reluctant to take on cases that do not appear “winnable”

Even with successful prosecution, the money is generally long-spent by the time a case ends.

A 2005 GAO study found that even in corporate fraud convictions, only about 7 percent of court-ordered restitution is paid.

***the emotional trauma often takes its toll long before a court case can be heard.***

*Victims don't care about justice  
– they just want their money  
back.”*

The Honorable Colleen Toy White, Ventura County  
Superior Court Judge and founder of the Ventura  
County Elder Court, Ventura, California



# California law includes separate and specific criminal and civil code sections for financial crimes/exploitation against elders and dependent adults

## **CIVIL CODE SECTION 368-368.5**

368. (a) The Legislature finds and declares that crimes against elders and dependent adults are deserving of special consideration and protection, not unlike the special protections provided for minor children, because elders and dependent adults may be confused, on various medications, mentally or physically impaired, or incompetent, and therefore less able to protect themselves, to understand or report criminal conduct, or to testify in court...

*Note: Crimes against elders/dependent adults draw higher penalties in California than the same crime against a younger, able-bodied adult.*

# California Elder & Dependent Adult Civil Protection Act

## **WELFARE AND INSTITUTIONS CODE SECTION 15600-15601**

15600. (a) The Legislature recognizes that elders and dependent adults may be subjected to abuse, neglect, or abandonment and that this state has a responsibility to protect these persons.

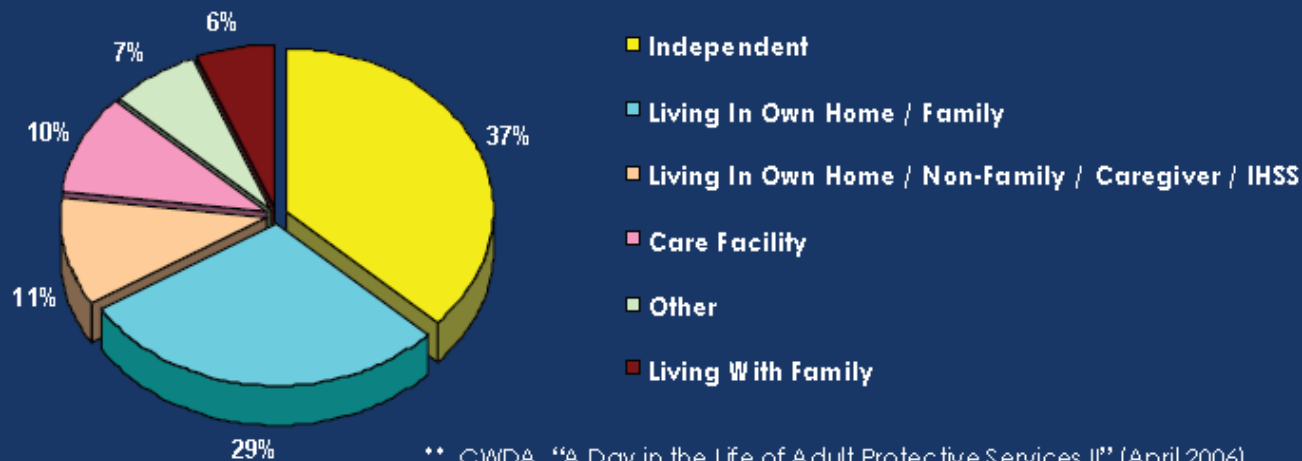
(b) The Legislature further recognizes that a significant number of these persons are elderly. The Legislature desires to direct special attention to the needs and problems of elderly persons, recognizing that these persons constitute a significant and identifiable segment of the population and that they are more subject to risks of abuse, neglect, and abandonment.

## Demographics of Financially Abused Seniors\*

- Majority of senior victims are 75 to 84 years old.
- Females are 24% more likely to be a victim of financial abuse than men.
- Denial is the common theme among the victims.
- English is the most common language spoken among the victims.
- 30% of victims have mental health issues.
- Victims' income ranges widely; 35% receive Social Security as their only income source.

\* Based on reports received.

## Victim's Living Situation\*\*



\*\* CWDA, "A Day in the Life of Adult Protective Services II" (April 2006)

*Anna and Joe; The importance of Adult Protective Services in the fight against elder financial abuse.*  
County Welfare Directors Association of California



**A Day in the Life of Adult  
Protective Services – II  
Financial Abuse**

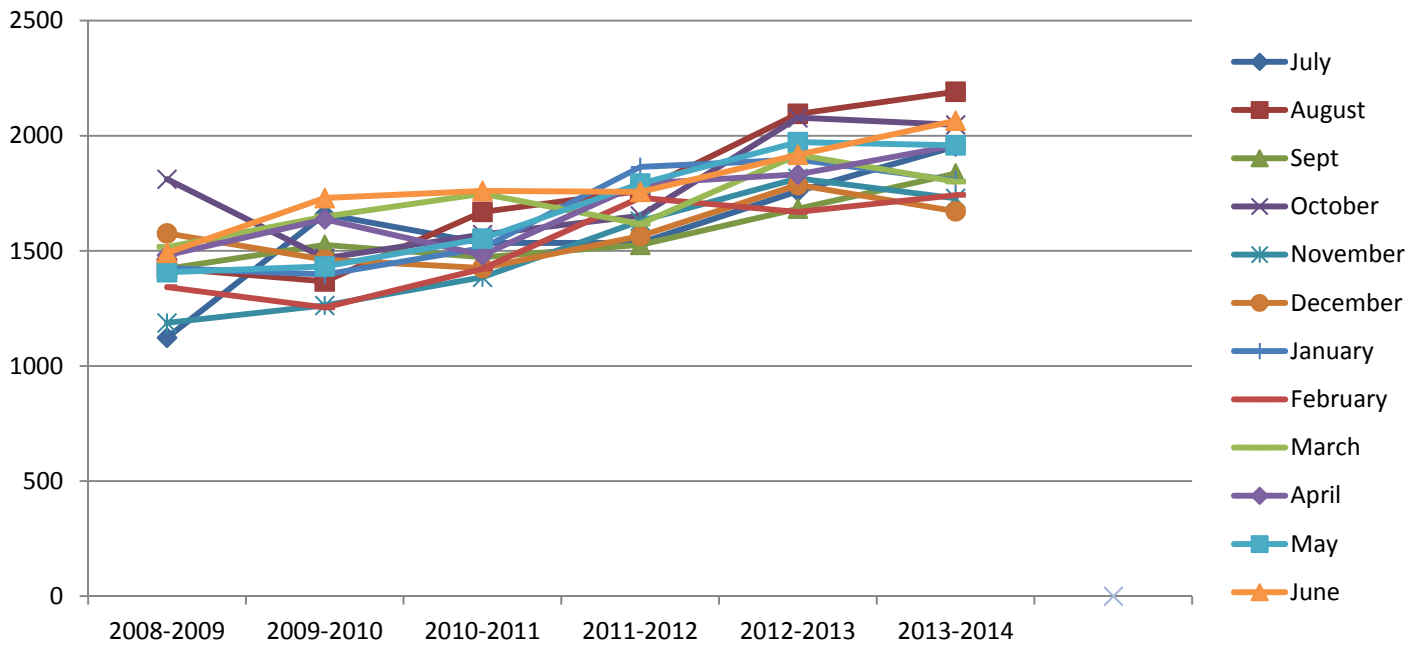
**A Profile of the  
Financial Abuse Reports  
Received In California on**

**Friday, March 5, 2004**

**Presented by:  
County Welfare Directors  
Association of California  
Protective Services Operations Committee  
April 2006**

County Welfare  
Director's Association  
of California reported  
a **32 percent**  
**increase** in the  
number of cases  
alleging financial  
abuse of elders over a  
10 year period.

# APS reports of Elder Financial Abuse 2008 – 2014



SENATE BILL

No. 60

Introduced by Senator Wright

January 7, 2013

An act to amend Section 13951 of the Government Code, relating to the Victims of Crime Act, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 60, as introduced, Wright. Victims of Crime Act: elderly adults. Existing law provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and specified limits on the amount of compensation the board may award.

This bill would include financial abuse of an elderly or dependent adult within the definition of crimes that are eligible for compensation under these provisions and provide legislative findings and declarations regarding financial crimes against elderly or dependent adults.

By expanding the application of provisions authorizing certain uses of continuously appropriated funds, this bill would make an appropriation.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 847

Introduced by Senator Block

January 9, 2014

An act to amend Sections 13955, 13956, and 13957 of the Government Code, relating to crime victims, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 847, as amended, Block. Crime victim compensation: financial elder or dependent adult abuse.

Existing law provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and specified limits on the amount of compensation the board may award.

This bill would include victims of financial elder or dependent adult abuse within the definition of crimes that are eligible for compensation under these provisions, as specified, and provide reimbursement for financial counseling, as specified, for those victims. The bill would make a derivative victim ineligible for compensation if the only crime the victim suffered was financial elder or dependent adult abuse. The bill would also provide related legislative findings and declarations.

By expanding the authorization for the use of moneys in the Restitution Fund, a continuously appropriated fund, this bill would make an appropriation.

legislation to add victims of  
elder & dependent adult financial  
abuse/exploitation was found too costly two  
years in a row...

## SB 60 – 2013

Victims of P.C. 368 (d) or (e) (financial crimes against an elder or dependent adult)

- Mental health counseling
- Financial Counseling (up to \$2,000)
- **Proposed total per victim: \$10,000**

SB 60 later passed without the elder/dependent adult provisions, instead making Victims Compensation available to victims of human trafficking.

## **SB 847 – 2014**

Victims of P.C. 368 (d) or (e)

– Mental health counseling

Financial Counseling

– Proposed total per victim: \$2,000

- No assistance to derivative victims

**Annual cost of SB 847 was estimated at \$5 million to \$10 million**



# What do we need?

- Accurate numbers could help demonstrate the severity of the problem.
  - How many victims need compensation?
  - What is the cost of services?
- APS reporting isn't uniform across California's 58 counties with varying technology/capacity
- Restitution collection is limited – not well-tracked in the state – impacting the Victim's Comp. Fund
- Cases are seldom prosecuted

## **Options under consideration**

Single-county demonstration project:

- San Diego County has a large retiree population; many reported elder/dependent adult financial abuse cases; strong elder abuse prosecutors and strong service network.
- Data from San Diego County’s integrated social services agency shows that approximately 21% of all reported cases of financial abuse by others are confirmed.

Statewide pilot with capped payout:

- Devote set amount from VCF over a two-year period to identify:
  - How many apply
  - Cost of services
  - Best practices/outcomes for victims

Carol Sewell, MAG

California Commission on Aging

[sewell@ccoa.ca.gov](mailto:sewell@ccoa.ca.gov)

California Elder Justice Coalition

[www.elderjusticecal.org](http://www.elderjusticecal.org)