

# Implementing SB 196: APS- Initiated Restraining Order

## Riverside County DPSS Adult Services Division

Barry Dewing, Regional Manager  
Julie Orozco, Regional Manager  
Raymond Mistica, Deputy County Counsel  
Angela Rosato, EAFC Coordinator  
Michaela Williams, CARE Coordinator



# APS Initiated Restraining Order (AIRO)

## Background:

- 2014: Riverside County CARE Team submitted legislative proposal
- 2016: Became a law
- Modified W&IC 15657.03 and 15610.07
- Allows APS to file a request for a restraining order to protect an elder or dependent adult who:
  - has an impaired ability to appreciate and understand the circumstances that place him or her at risk of harm, or
  - has provided written authorization for APS to file the restraining order on their behalf.

# Implementation



- Established planning/implementation meetings (APS Managers, staff experienced with restraining orders, County Counsel, Public Guardian, Probate Court).
- Determined County Counsel would file the petitions
- Designated AIRO Coordinator (per County Counsel request)
- Wrote internal procedures (step-by-step instructions)
- Developed policy
- Trial case submission, debrief discussion, and modification to policy and procedures
- Presentations made to APS staff

# The Legal Authority

## WELFARE & INSTITUTION CODE § 15657.03

- **LAW:** Pursuant to Welfare & Institutions Code section 15657.03(a)(3)(A), a petition may be brought on behalf of an elder or dependent adult by a county adult protective services agency in either of the following circumstances:
  - If the elder or dependent adult has suffered abuse and has impaired ability to appreciate and understand the circumstances that place him or her at risk of harm.
    - Under this option, APS is required to make a referral to the Public Guardian upon filing. (Section 15657.03(a)(3)(B).)
  - If the elder or dependent adult has provided written authorization to a county adult protective services agency to act on his or her behalf.
- **BURDEN:** A protective order may be issued upon reasonable proof of past acts of abuse. (Section 15657.03(c).)
  - Don't need any particularized showing that the wrongful acts will be continued or repeated. (*Godowsky v. Godowsky* (2009) 175 Cal.App.4<sup>th</sup> 128.)
  - Burden of proof is on the petitioner and under preponderance of the evidence standard. (*Godowsky v. Godowsky* (2009) 175 Cal.App.4<sup>th</sup> 128; *Book out v. Nielsen* (2007) 155 Cal.App.4<sup>th</sup> 1131.)
- **SCOPE:** The court has broad authority to enjoin any specified behavior. (Section 15657.03(b)(4)(C).)

# The Legal Authority

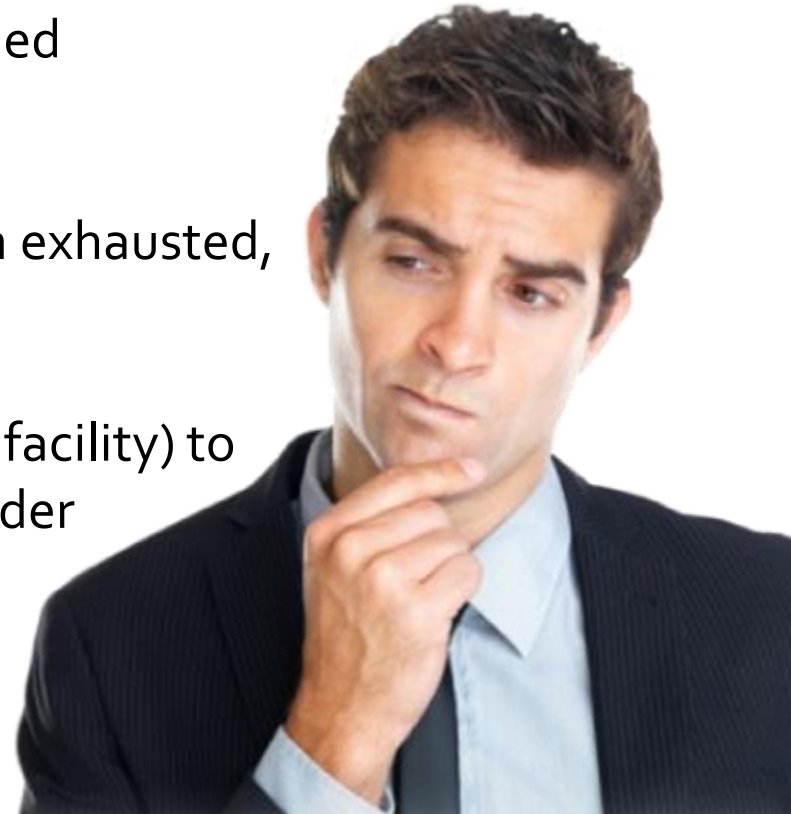
## WELFARE & INSTITUTION CODE § 15657.03

- **LIMITATION:**
  - If seeking an order excluding the suspected abuser from the residence, the APS client must have legal or equitable title of, or lease rights in, the residence. (Section 15657.03(b)(4)(B).) On the other hand, can “kick-out” suspected abuser even if suspected abuser has legal rights to the residence.
  - To obtain a temporary restraining order excluding the suspected abuser from the residence, you must show that the suspected abuser has assaulted or threatened to assault the APS client. (Section 15657.03(d).)
  - To obtain a permanent order excluding the suspected abuser from the residence, the court must find that the physical or emotional harm would otherwise result to the APS client. (Section 15657.03(h).)
- **TIMING:** Temporary restraining orders may be granted upon the filing of the petition and last until the permanent hearing. (Section 15657.03(d).) Hearing on permanent orders are within 21 days from the filing of the petition unless good cause shown requiring 25 days. (Section 15657.03(f).)
- **DURATION:** The permanent order has a duration of not more than five years, but may be renewed. (Section 15657.03(i)(1).) If the order does not on its face state the expiration date, the duration is three years from the date of its issuance. (Section 15657.03(i)(2).)

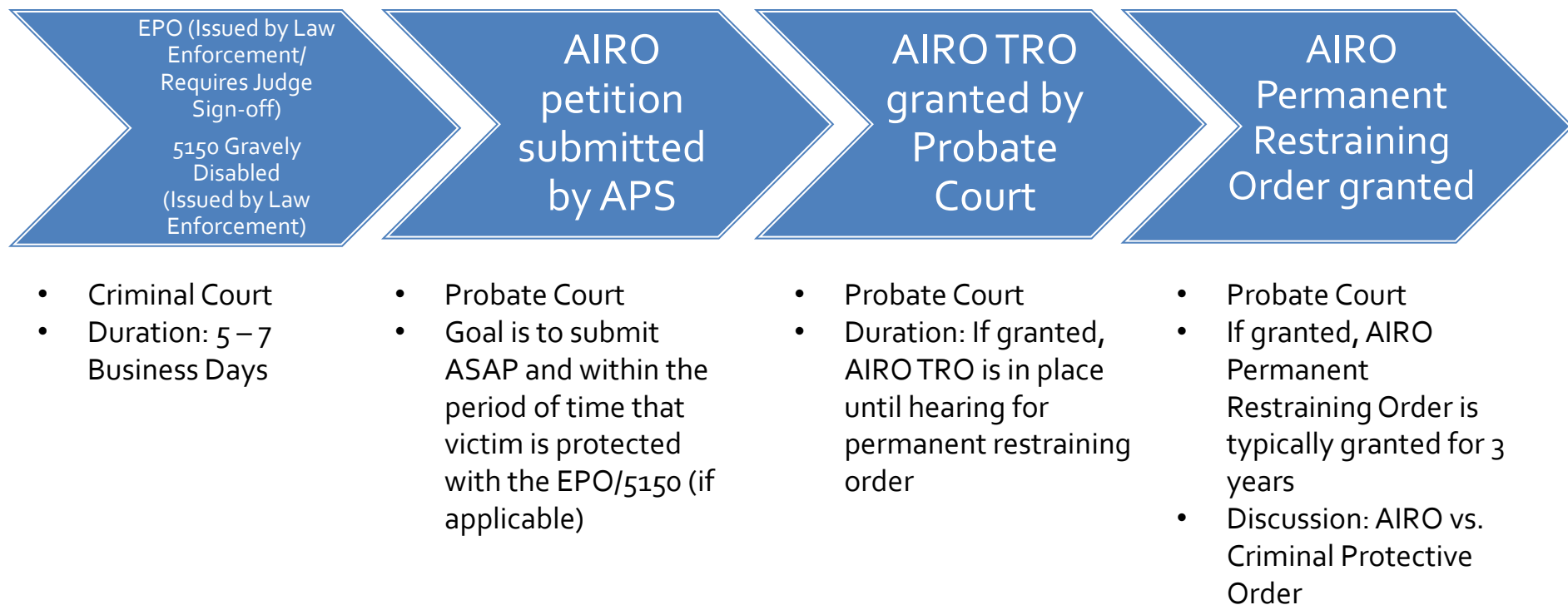
# Filing Considerations

An AIRO request shall only be initiated for severe cases of abuse when:

- the client remains vulnerable to continued victimization,
- All other protective measures have been exhausted, and
- A reliable third party exists (i.e. licensed facility) to monitor compliance of the protective order



# Ideal Case Flow



# Considerations/Challenges

- County Counsel involvement
- Time Consuming (packet, process)
- Requires specialist (due to low volume)
- Initially viewed as a fix-all solution to challenging cases (it is not)
- Cases with existing conservatorships (be mindful of partners)
- Law enforcement history (suspect/victim; interagency cooperation; public records)





# Considerations/Challenges

- Repercussions for the client/county (i.e. when you remove caretaker, requires 3rd party)
- APS Social Worker testimony
- Criticism when we elect to not do an AIRO
- Community partners seeing AIRO as an alternative to their intervention (i.e. Public Guardian, Law Enforcement)
- Financial Abuse /Neglect cases



# Benefits of the AIRO

- Protects our most vulnerable clients
- Buys time (while waiting for conservatorship, criminal proceedings)
- Provides legal authority to keep client protected/confidential
- Gives law enforcement the authority to enforce the order
- Provides a level of protection even beyond a Criminal Protective Order (CPO)



# AIRO Outcomes

- Permanent Approved: 4
- TRO Granted/Permanent Withdrawn: 1
- TRO Granted/Permanent Denied: 1
- AIRO Consult Only: 9



**Protection**

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*Success*



# CASE PRESENTATIONS

# AIRO Case Presentation #1

- **Pseudonym:** Jane Doe A
- **Age:** 87
- **Gender:** Female
- **Living situation:** Lived at home with son, daughter and son-in-law
- **Medical history:** hypertension, atrial fibrillation, hypothyroidism, left sided hemiparesis, dementia, and Chronic Obstructive Pulmonary Disease (COPD). Was on hospice due to a significant cerebrovascular accident (CVA).

# Case History

- **Criminal History:** Two prior criminal cases (2009 and 2014) involving PC 368 (Elder Abuse) against victim
- **APS History:**
  - History of client refusing services, insisting on returning to home of abusers
  - History of suspects removing victim from medical facilities AMA (Against Medical Advice)
  - Family hiding client

# Presenting Case

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# Presenting Case



August 25,  
2016

- Hospice aid walked in on son sexually assaulting victim, called 911
- Law enforcement dispatched, son arrested, son-in-law arrested
- EPO issued by law enforcement
- Client listed as Jane Doe in hospital while AIRO in process



# Presenting Case



August 25,  
2016

- Hospice aid walked in on son sexually assaulting victim, called 911
- Law enforcement dispatched, son arrested, son-in-law arrested
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August 30,  
2016

- Joint visit conducted (APS, DA investigator, neuropsychologist)
- Capacity assessment completed

# Presenting Case

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2016

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- Capacity assessment completed

September 2,  
2016

- AIRO filed with Probate Court
- TRO granted

# Presenting Case

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2016

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- Law enforcement dispatched, son arrested, son-in-law arrested
- EPO issued by law enforcement
- Client listed as Jane Doe in hospital while AIRO in process

August 30,  
2016

- Joint visit conducted (APS, DA investigator, neuropsychologist)
- Capacity assessment completed

September 2,  
2016

- AIRO filed with Probate Court
- TRO granted

September 22,  
2016

- Court hearing for Permanent Restraining Order
- 3 restraining orders granted
- Client is safe

# AIRO Case Presentation #2

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- **Pseudonym:** Jane Doe B
- **Age:** 88
- **Gender:** Female
- **Living situation:** Lives in the home with her adult daughter and adult grandson
- **Medical history:** HBP, Pacemaker (5 years ago), HCL, overactive bladder, dementia

# Case History

- **APS History:**
  - 9 past APS Investigations
    - 2011 - 2018
      - Majority are Financial Abuse against grandson
      - 2018: Self-Neglect

# Presenting Case

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# Presenting Case



June 26,  
2018


- APS receives referral regarding bruising on client's forehead and arms
- Daughter/caretaker "non-chalant" about bruising and unable to provide explanation
- Reports caretaker has yelled and thrown things before and they are worried about possible physical abuse

# Injuries





# Presenting Case



June 26,  
2018

- APS receives referral regarding bruising on client's forehead and arms
- Daughter/caretaker "non-chalant" about bruising and unable to provide explanation
- Reports caretaker has yelled and thrown things before and they are worried about possible physical abuse

June 27,  
2018

- Joint visit conducted (APS, law enforcement)
- Client transported to hospital for evaluation
- Placed on 5150 hold

# Presenting Case

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2018

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2018

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- Client transported to hospital for evaluation
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June 28,  
2017 – July  
16, 2018

- Investigation continues
- Client is placed in out-of-home care
- Bruises improve
- Case presented to EAFC

# Before and After



# Before and After





# Before and After



# Before and After



# Presenting Case

June 26,  
2018

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June 27,  
2018

- Joint visit conducted (APS, law enforcement)
- Client transported to hospital for evaluation
- Placed on 5150 hold


June 28,  
2017 – July  
16, 2018

- Investigation continues
- Client is placed in out-of-home care
- Bruises improve
- Case presented to EAFC

July 26 – 30,  
2018

- EAFC physician reviews medical records and indicates bruising is concerning, but not conclusive
- AIRO Consult occurs with APS and County Counsel
- Investigation continues

# Presenting Case



July 28 – 31,  
2018


- Client discharged home
- Client presents with new bruising
- SW conducts multiple visits to the home



# Injuries after return to home



# Presenting Case



July 28 – 31,  
2018

- Client discharged home
- Client presents with new bruising
- SW conducts multiple visits to the home and observes client in her environment

August 6,  
2018

- Case presented at EAFC for update
- Based on APS investigation, decided to not pursue an AIRO
- More home health services provided
- Initiated referral to PG

# Outcomes



- **Evaluation of injuries:** Bruising determined to be as a result of requiring higher level of care
  - EAFC Geriatrician evaluates medical history and bruising
  - Social worker observes client in her environment
  - Social worker photographs bruising during multiple visits
- **AIRO Consultation:** After extensive consultation, AIRO was not pursued
  - Two (2) MDT consults with the EAFC
  - Teleconference consult regarding AIRO
- **Allegation Conclusions:**
  - **Daughter**
    - Financial Exploitation: Confirmed
    - Neglect: Confirmed
    - Psychological/Mental Abuse: Confirmed
    - Physical Abuse: Inconclusive
  - **Grandson:**
    - Financial Exploitation: Confirmed
    - Psychological/Mental Abuse: Confirmed
  - **Self-Neglect:** Unfounded
- **Safety Plan:**
  - Home Health/Hospice services
  - Son trying to become trustee/APS pursuing conservatorship as back-up

# AIRO Case Presentation #3

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- **Pseudonym:** Jane Doe C
- **Age:** 73
- **Gender:** Female
- **Living situation:** Lived at home with son (caretaker) and two other non-relative females
- **Medical history:** Dementia, Stage 4 Kidney Disease, Hypertension, poor mobility, weakness, dizzy spells, poor balance, bladder incontinence

# Case History

## APS History

- **2012:** Report of client having memory issues and people residing in the home taking advantage of her
  - Unfounded; client was alert, denied allegations, and allowed social worker to tour home
- **2014:** Report of client experiencing physical and mental decline, as well as family member trying to financially abuse client
  - Undetermined; unable to contact. However, once client was made aware of questionable transactions, she declined family member access to account, requested ATM to be canceled established in-person withdrawals only

## IHSS History

- Client began receiving In-Home Support Services (IHSS) in June 2015.
- Client was authorized for protective supervision.
- Suspected abuser in this case was her IHSS provider.

# Presenting Case

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# Presenting Case



September 7,  
2017

APS referral  
received from  
law  
enforcement

# Presenting Case



A horizontal blue line with four circular markers. The first marker is at the left, the second is to its right, the third is further right, and the fourth is at the far right. Below the first marker is the date 'September 7, 2017' and the text 'APS referral received from law enforcement'. Below the second marker is the date 'September 8, 2017' and the text 'APS initiates investigation'. The third and fourth markers do not have text below them.

September 7,  
2017

APS referral  
received from  
law  
enforcement

September  
8, 2017

APS initiates  
investigation



# Presenting Case



September 7,  
2017

APS referral  
received from  
law  
enforcement

September  
8, 2017

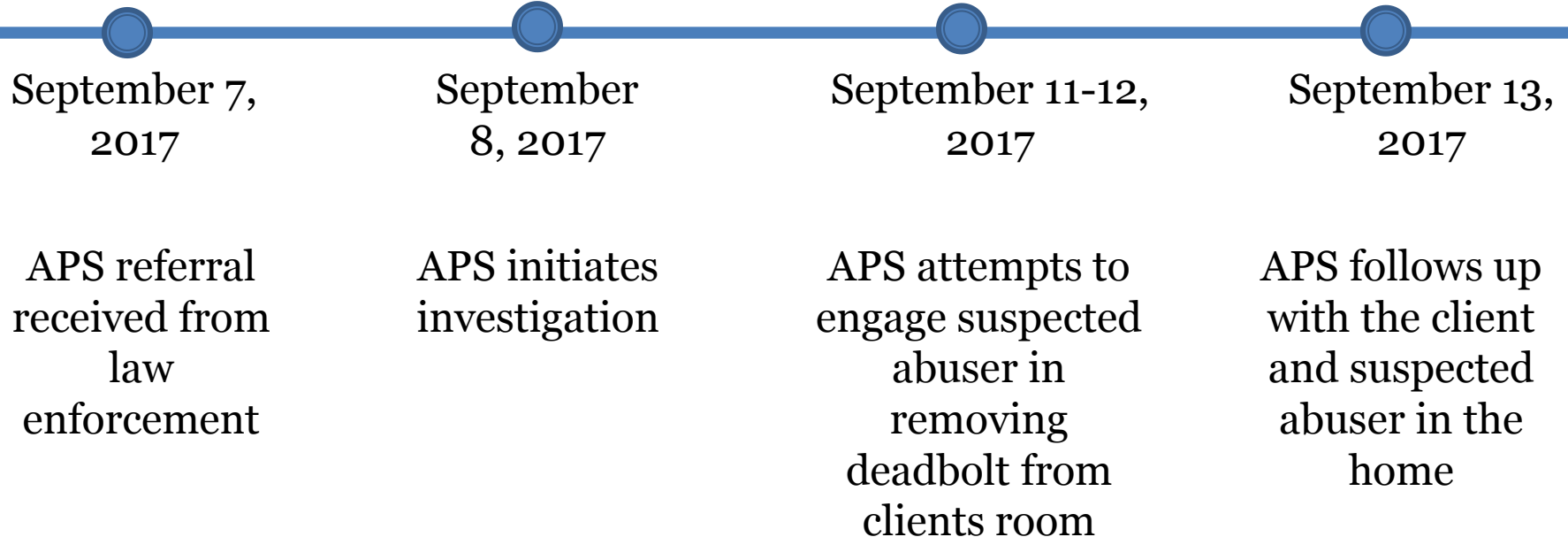
APS initiates  
investigation

September 11-12,  
2017

APS attempts to  
engage suspected  
abuser in  
removing  
deadbolt from  
clients room



# Presenting Case



# Client Presentation

- Client wearing a shirt, diaper and socks
- EMT estimated diaper had not been changed in several days
- Client needed assistance to ambulate, walker blocked and unable to access
- Client had a mattress and box spring on the floor, with a soiled blanket on top
- Client did not have any clothing in her closet
- Client reported she was hungry



# Presenting Case



September  
25, 2017

- AIRO filed with Probate Court
- TRO granted

October 17,  
2018

- Hearing for Permanent restraining order
- Trial with social worker testimony
- Restraining Order granted

November 28,  
2017

- Temporary conservatorship is granted for another one of client's sons
- Client was able to return to her home

December 26,  
2017

- Permanent conservatorship established with another son.

# Positive Outcomes

- Client removed from abusive environment
- Protective orders issued (EPO, AIRO)
- Conservatorship with family
- Suspect arrested (bailed out)
- District Attorney filed charges/Arrest Warrant Issued:
  - 3 Counts of PC 368(E)(1) (Embezzlement/fraud of an elder or dependent adult by caretaker)
  - 2 counts of PC 236 (False Imprisonment)
  - PC 667(C) (Prior Felony Conviction)
  - PC 667 (E)(1) (Prior Strike)
  - PC 667 (C)(2) (Ineligible for Probation)



# AIRO: Final Words

- The AIRO can be a valuable tool to aid APS in their effort to protect vulnerable clients
- While a time consuming process, but one that has positive outcomes for our clients
- Need coordinator to help facilitate process; helps provide a main point of contact for everyone

Worthwhile

*adj.* worth the time, money  
and energy expended; valuable,  
beneficial and rewarding

# Questions/Discussion

