

PROTECTION OF OUR ELDERLY: A MULTIDISCIPLINARY COLLABORATIVE SOLUTION FOR ALASKA

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INTRODUCTION

"Alaska seniors are vital to our state. They are employers and employees, volunteers and mentors, family anchors, caregivers and care receivers in the Alaskan community. Alaska seniors are the pioneers who developed our state and continue to improve the communities where they live."¹

The elderly population's significance in modern society is paramount.² In Alaska, a state enriched with Native Alaskan culture that is also home to one of the fastest-growing elderly populations in the entire country,³ the elderly's presence in the community cannot be underestimated. Elders in Native Alaskan communities are believed to be the cultural preservationists and wisdom keepers, sharing their

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1. ALASKA COMM'N ON AGING, FY 2010 ANNUAL REPORT 1 (2010), *available at* http://dhss.alaska.gov/acoa/Documents/documents/ACOA_FY2010.pdf (quoting letter from Sharon Howarton-Clark and Denise Daniello, Chair and Executive Director of the Alaska Commission on Aging) [hereinafter FY 2010 ANNUAL REPORT].

2. Hugh McNichol, *Elderly People in Modern Society*, HELIUM, <http://www.helium.com/items/237654-elderly-people-in-modern-society> (last updated Oct. 28, 2011).

3. Press Release, Alaska Comm'n on Aging, *We're #1: Alaska Tops in Senior Population Growth 1* (Feb. 17, 2009), <http://dhss.alaska.gov/acoa/Documents/assets/SeniorGrowth.pdf> [hereinafter *Senior Population Growth*]; *see also* WILLIAM H. FREY, *THE UNEVEN AGING AND 'YOUNGING' OF AMERICA: STATE AND METROPOLITAN TRENDS IN THE 2010 CENSUS 5* (2011), *available at* http://www.brookings.edu/~media/research/files/papers/2011/6/28%20census%20age%20frey/0628_census_aging_frey.pdf ("The states with the fastest-growing senior populations are located in the West and to a lesser extent in the Southeast . . . [including] Alaska . . . [which] increased [its] senior populations by at least 30 percent from 2000 to 2010.").

knowledge with the younger generations.⁴ Retired Alaska seniors provide massive support to the state's economy through their annual spending of approximately \$1.7 billion in healthcare costs and retirement pension funds, a total that outweighs the economic contribution of Alaska's tourism and seafood industries.⁵ Despite the massive contributions that seniors provide to the state, a pandemic stands in the way of allowing Alaska's elderly, especially those in Native communities, to continue imparting their influence on society. The pandemic is elder abuse.

Such abuse carries severe repercussions, but "elder abuse is still a national blind spot."⁶ The implementation of the Elder Justice Act of 2009 ("EJA") exemplifies the lack of discussions surrounding the protection of seniors.⁷ Congress enacted the EJA to assist with the movement to eradicate mistreatment of the elderly mainly by providing leadership at the federal level.⁸ While the EJA should accomplish great feats in the realm of protecting elders, politics will still create unnecessary barriers to the ultimate goal of protecting the nation's elderly from mistreatment.

This Article focuses on the abuse of the elderly in the Alaskan community and the ways in which protection against abuse can prevail. Parts I and II discuss the relevant background information and the current means of protection against elder abuse. Part III examines the Elder Justice Act and the impact of the EJA on the nation and in Alaska, specifically. Finally, Part IV explores two approaches to combat elder

4. NAT'L RES. CTR. FOR AM. INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN ELDERS, CONFERENCES OF ALASKA NATIVE ELDERS: OUR VIEW OF DIGNIFIED AGING 5-6 (2004), available at http://elders.uaa.alaska.edu/reports_yr1_2qualitative.pdf.

5. STATE OF ALASKA DEP'T OF HEALTH AND SOC. SERVS. & ALASKA COMM'N ON AGING, THE ALASKA STATE PLAN FOR SENIOR SERVS. app. C at 9 (2011), available at http://dhss.alaska.gov/acoa/Documents/documents/State_plan_2012-2015.pdf [hereinafter STATE PLAN]; see also Senior Population Growth, *supra* note 3, at 3 (stating retired Alaskans bring in an estimated \$1.7 billion to Alaska's economy, primarily from retirement income and healthcare spending which exceeds tourism, seafood, mining, or international air cargo).

6. Elizabeth Olson, *A Prosecutor Becomes a Champion for the Elderly*, N.Y. TIMES, Mar. 8, 2012, at F2, available at, <http://www.nytimes.com/2012/03/08/business/retirementspecial/lawyer-to-chronicle-people-who-fight-abuse-of-elderly.html>.

7. Elder Justice Act of 2009, Pub.L. 111-148, Title VI, Subtitle H, Mar. 23, 2010, 124 Stat. 782. The Elder Justice Act was enacted as part of the Patient Protection and Affordable Care Act. *Id.*

8. 42 U.S.C. § 1397k-1 (2012). EJA created the Advisory Board on Elder Abuse, Neglect, and Exploitation "to create short- and long-term multidisciplinary strategic plans for the development of the field of elder justice and to make recommendations[.]" *Id.*

abuse in Alaska.

Currently, the government has tackled elder abuse through two strategies. The first involves instituting court-focused elder abuse initiatives, similar to those enacted in five states that currently provide such programs for their seniors, that are sensitive to the special needs required of the elderly in the legal process and that ensure that seniors are able to obtain justice. The second strategy entails creating an elder abuse forensic center that services elders across the state by instituting an agency focused on multidisciplinary collaboration that investigates and prosecutes cases of elder abuse and mistreatment. Though both approaches may pose challenges with their execution, each strategy should protect elders from occurrences of mistreatment and educate the public about the existence of elder abuse.

Elder abuse is defined as “[a]ny knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult.”⁹ Even though elder abuse is only recently gaining exposure before the public, and despite the fact that few instances of mistreatment have been publicized, people must realize that elder abuse is rampant.¹⁰ The mistreatment of elders is a major social problem that is increasing with the growth of the senior population.¹¹ According to population projections by the U.S. Census Bureau, “[b]y 2030, the number of persons in the U.S. older than 65 is projected to be 69 million . . . [and] about 2.5 million will be abused or neglected.”¹² Alaska presents a unique perspective regarding its elderly population and requires diligent planning to protect against abuse due to the current magnitude of the senior population and the massive projected population changes.

I. THE ELDER POPULATION IN ALASKA

Surprisingly, Alaska has one of the fastest growing elderly population compared to the rest of the nation.¹³ Two main causes

9. *Frequently Asked Questions*, NAT’L CTR. ON ELDER ABUSE ADMIN. ON AGING, http://www.ncea.aoa.gov/NCEARoot/Main_Site/FAQ/Questions.aspx (last modified Sept. 21, 2011) [hereinafter *FAQ*]. Elder abuse is also referred to as “elder mistreatment” in various pieces of literature. This Article will use “elder abuse” and “elder mistreatment” interchangeably.

10. Olson, *supra* note 6.

11. Dean A. Hawley, *Elder Abuse: Is it Abuse, Neglect, or Something Else?*, 2010 Elder Rights/Triad Conference, Illinois Department of Aging, July 14–16, 2010, Chicago, IL.

12. Lisa Gibbs & Laura Mosqueda, *The Importance of Reporting Mistreatment of the Elderly*, 75 AM. FAM PHYSICIAN 5, 628 (2007), <http://www.aafp.org/afp/2007/0301/p628.html>.

13. Senior Population Growth, *supra* note 3, at 1.

explain such a trend. First, Alaskan seniors outlive their counterparts in the rest of the country. The Alaska Commission on Aging found that the elderly in Alaska are “18 percent less likely to die from any cause during a given year than his/her U.S. counterpart.”¹⁴ Second, the maturation of the migrants from the 1970s and 1980s accounts for the increased growth. Though seniors are moving from Alaska to warmer climates at a rate almost equal to the number of seniors moving to Alaska,¹⁵ the construction of the Trans-Alaska oil-pipeline and the accompanying spending that occurred during the 1970s and 1980s caused an increase in migration to Alaska, and now that generation is maturing.¹⁶ The oil discovered in Prudhoe Bay in 1968, the largest oil field discovered in the U.S. and current producer of approximately more than 11 percent of all oil in the country, provided Alaska with a booming economy and jobs to spare, the effects of which still reverberate in Alaska today.¹⁷ The migration of thousands of workers to Alaska during those decades is now playing a key role in the surge of Alaska’s elderly population.¹⁸ Many of those workers became permanent residents of Alaska, and the parents of those migrant workers followed their children to Alaska as well.¹⁹

Projections of changes in the senior population predict that the number of seniors in Alaska will likely reach 155,382 by the year 2035.²⁰ Further, the rise in the senior population is not limited to big cities such as Anchorage or Fairbanks. Each of the various regions in Alaska saw an increase in their elderly population by at least 20 percent.²¹ Unfortunately, a rise in the reports of elder abuse supplements the increasing population of elderly in the Alaskan community. In 2010, the expected rate of elder abuse in the Alaska Native population was estimated to range from 5,600 to 8,400 cases.²² Incidents of elder abuse reported to the Adult Protective Services (“APS”) and the Long Term

14. FY 2010 ANNUAL REPORT, *supra* note 1, at 24.

15. Senior Population Growth, *supra* note 3, at 1.

16. *Id.*

17. Russell Gold, *Shrinking Oil Supplies Put Alaskan Pipeline at Risk*, WALL ST. J., May 11, 2011, *available at*, <http://online.wsj.com/article/SB10001424052748704570704576274682119735102.html>.

18. Senior Population Growth, *supra* note 3, at 1.

19. *Id.*

20. EDDIE HUNSINGER AND DAVID HOWELL, ALASKA POPULATION PROJECTIONS 11 (2012), *available at* <http://labor.alaska.gov/research/pop/projected/pub/popproj.pdf>.

21. FY 2010 ANNUAL REPORT, *supra* note 1, at 23.

22. NAT’L RES. CTR. FOR AM. INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN ELDERS, ELDER ABUSE AMONG ALASKA NATIVES 1 (2004), *available at* http://www.unified-solutions.org/Pubs/elder_abuse_among_alaska_natives.pdf [hereinafter ELDER ABUSE AMONG ALASKA NATIVES].

Care Ombudsman Office (“LTCO”) were firmly rising while the APS and LTCO confirmed increases of 13.5% and 24%, respectively.²³ The mounting reports of abuse are cause for concern. Alaska must no longer turn a blind eye to the problem of elder abuse and must undertake approaches to prevent instances of abuse from occurring.

II. ELDER ABUSE

Generally, elder abuse is defined as any form of mistreatment that results in harm or loss to an older person, including physical or emotional abuse, financial exploitation, neglect, and abandonment.²⁴ There are three different types of abuse: (1) physical abuse, defined as “the use of physical force that may result in bodily injury, physical pain, or impairment;” (2) emotional abuse, defined as “the infliction of anguish, pain, or distress through verbal or nonverbal acts;” and (3) sexual abuse, defined as “non-consensual sexual contact of any kind with an elderly . . . person.”²⁵ Financial exploitation is the mishandling of an elderly person’s financial resources for another’s personal or pecuniary gains.²⁶ Neglect, considered the most frequent act of mistreatment on the elderly,²⁷ is the failure of a caretaker to provide care or carry out duties for an elder.²⁸ Self-neglect occurs when elders refuse or fail to provide themselves with basic necessities.²⁹ Abandonment occurs when a caretaker deserts the elderly person entrusted to her care.³⁰

Victims of elder abuse are usually older adults who suffer from physical and mental frailty,³¹ socially isolation,³² or a living situation with someone who may be an abuser.³³ Offenders of elder abuse range

23. FY 2010 ANNUAL REPORT, *supra* note 1, at 25.

24. ELDER ABUSE AMONG ALASKA NATIVES, *supra* note 22, at 1.

25. NAT’L ASS’N OF ADULT PROTECTIVE SERV. ADM’R, ELDER ABUSE AWARENESS KIT 4 (2001), available at <http://www.napsa-now.org/wp-content/uploads/2012/09/speakers.pdf>.

26. *Id.*

27. Solomon Liao, *Preventing and Detecting Elder Mistreatment*, 10 AM. MED. ASS’N J. ETHICS 389, 390 (2008).

28. NAT’L ASS’N OF ADULT PROTECTIVE SERV. ADM’R, *supra* note 25, at 4.

29. NAT’L CTR. ON ELDER ABUSE, THE NATIONAL ELDER ABUSE INCIDENCE STUDY 3 (1998), available at http://aoa.gov/AoA_Programs/Elder_Rights/Elder_Abuse/docs/ABuseReport_Full.pdf.

30. FAQ, *supra* note 9.

31. See generally NAT’L ASS’N OF ADULT PROTECTIVE SERV. ADM’R, *supra* note 25, at 4–20 (discussing the physical and mental frailties often afflicting elders who are abused, including dementia and Alzheimer’s, incontinence, Schizophrenia, and depression).

32. FAQ, *supra* note 9.

33. *Id.*

from spouses, adult children, and grandchildren to friends, or service providers.³⁴

Data on elder abuse is grim. The largest U.S. study on elder abuse, conducted in the late 1990s by the National Center on Elder Abuse, uncovered surprising and dismal findings: (1) abusers are family members or caretakers approximately 90 percent of the time; (2) female elders are more likely to be abused than male elders; (3) the elderly aged eighty and above are the most abused and neglected; (4) five out of six cases of abuse go unreported;³⁵ (5) approximately 5 million elders fall victim to abuse yearly.³⁶

A. Elder Abuse in Alaska

In Alaska, the APS handles reports of mistreatment.³⁷ In 2010, the APS, comprised of nineteen staff members working in three offices located in Anchorage, Fairbanks, and Juneau,³⁸ investigated 2,763 reports of abuse to elderly adults out of 3,119 intakes.³⁹ The most common type of abuse reported was self-neglect with 905 reports, followed by financial exploitation with 543 reports.⁴⁰ Correspondingly, self-neglect and financial exploitation were the most common substantiated reports of abuse at 49.9 percent and 18.7 percent respectively.⁴¹ The average age of an abused elder was seventy-five years.⁴² Between the years 2009 and 2011, the APS saw an 183 percent increase in reporting of elder mistreatment.⁴³ However, logistic difficulties hindered the APS's ability to investigate all of those reports. In 2009, APS received a total of 2138 reports of elder abuse; unfortunately, APS only investigated 1724 reports. APS received 3689 reports of elder abuse in 2010, but investigated 2972 of the reports. In 2011, 4426 reports of elder abuse were made to APS and 3272 reports were investigated.⁴⁴

The population of Alaska Natives presents a unique challenge in

34. NAT'L ASS'N OF ADULT PROT. SERV. ADM'R, *supra* note 25, at 9.

35. NAT'L CTR. ON ELDER ABUSE, *supra* note 29, at 18.

36. *FAQ*, *supra* note 9.

37. STATE PLAN, *supra* note 5, at 21.

38. *Id.* (of the nineteen staff, ten are investigators and two are intake workers).

39. *Id.*

40. *Id.*

41. *Id.* at 21–22.

42. *Id.* at 21.

43. *Alaska Adult Protective Services (APS) Program Information*, SENIOR & DISABILITIES SERVICES, http://dhss.alaska.gov/dsds/Pages/aps/apsprogram_info.aspx (last visited Feb. 12, 2013) [hereinafter *APS Program Information*].

44. STATE PLAN, *supra* note 5, at 19–20.

addressing elder abuse due to the difference in culture and lifestyle in the various regions of the state. With the surge in reports of abuse with the APS, cases will inevitably become more and more complex. The increasing number of cases to be handled by a modest number of APS staffers, the level of training needed to tackle those cases, and Alaska's distinctive geography make for enormous difficulties in investigations into reports of elder abuse.⁴⁵

In 2010, the APS substantiated 343 of 813 reports of abuse of Alaska Native Elders.⁴⁶ Although 343 reports is a small number, focusing merely on the number of reports overlooks the nature of the abuse.

Abuse of Alaska Native Elders developed mainly because of cultural losses and the effects of acculturation change over time.⁴⁷ Alaska Natives greatly value their culture and traditions, traditions embedded into their lifestyles and of the utmost importance to the health and welfare of the Elders.⁴⁸ The Russian settlement of Alaska altered the cultural lifestyle of the Alaska Natives, causing the Elders to suffer from "historical trauma,"⁴⁹ defined as "the kind of injuries . . . inflicted . . . on the traditions of community life that bonds people, thereby depleting the community's sense of cohesion."⁵⁰ The colonization of Alaska resulted in widespread disease epidemics, near obliteration of the subsistence-living, and the altering of their belief systems.⁵¹ Since all of this occurred within the Elders' lifetime, they are the most impacted by these changes.

Current literature suggests a lack of respect from the younger generations towards the elderly in their community as a principal reason for the elder abuse, generally stemming from historical trauma.⁵² Colonization forced younger generations of Alaska Natives to attend boarding schools, forbade them from speaking any Native languages, and prohibited the practice of Native religion. This resulted in the denial of tradition and cultural education for numerous generations of younger Alaska Natives. In the eyes of the Elders, acculturation essentially destroyed their values and beliefs. Such cultural loss arguably contributed to the rise of drinking in the elderly population, with consumption rates that surpass those in the lower 48.⁵³ Therefore, one

45. *Id.*

46. *Id.* at 21.

47. ELDER ABUSE AMONG ALASKA NATIVES, *supra* note 22, at 2.

48. *Id.*

49. *Id.* at 3-4.

50. *Id.* at 4.

51. *Id.* at 3.

52. *Id.* at 6.

53. *Id.*

may infer that elder abuse in Alaska is greatly associated with alcohol problems⁵⁴ in addition to the physical and mental frailties, stress that produces abusive behavior, and social isolation that is seen in elder abuse cases elsewhere.

B. Current Means of Protection Against Elder Abuse

1. Prosecution

What happens to cases of abuse that get reported, investigated, and are considered substantiated? Prosecution—hopefully. But because the prosecution of elder abuse cases is a practice consisting of purely circumstantial evidence,⁵⁵ many prosecutors find it challenging to take a charge of elder abuse to trial. According to the literature, prosecutors attempt to obtain pre-trial dispositions of these cases more often than any other.⁵⁶ Reluctance to bring these cases is primarily due to lack of training and education throughout prosecutor offices nationwide.⁵⁷ Many cases involve complex financial and medical issues requiring the use of expert testimony and may be difficult to prove to a jury. Prosecutors may elect to spend resources on cases involving “simpler” crimes.⁵⁸

Prosecutors may also be hesitant to prosecute an alleged elder abuser out of concern that the credibility of the elderly victim will be questioned due to mental infirmities, such as dementia or Alzheimer’s.⁵⁹ However, experts argue that while elderly abuse victims may have memory issues that impair decision-making,⁶⁰ they are likely to remember incidents of abuse.⁶¹ Prosecutors may also be concerned about putting some victims in front of a jury because of their special needs or lack of jury appeal.⁶² It may also be the case that elders feel a strong

54. *Id.* However, there is no data supporting information to that effect at this time. *Id.*

55. Hawley, *supra* note 11.

56. Sarah B. Berson, *Prosecuting Elder Abuse Cases*, NAT’L INST. JUST. J. (Apr. 2010), available at <http://www.nij.gov/journals/265/elder-abuse-prosecuting.htm>.

57. *Id.*

58. *Id.*

59. Philip Bulman, *Elder Abuse Emerges From the Shadows of Public Consciousness*, NAT’L INST. JUST. J. (Apr. 2010), available at <http://www.nij.gov/nij/journals/265/elder-abuse.htm>.

60. Liao, *supra* note 27, at 390.

61. See Bulman, *supra* note 59 (“91 percent knew what caused their bruises. Only 28.6 percent of the comparison group — those who had normal, non-abusive bruising — remembered the incident that caused their accidental bruises”).

62. Berson, *supra* note 56.

desire to remain autonomous and may refuse protection against abuse.⁶³

Ultimately, successful prosecutors will be those who place less value on winning records in determining whether to bring elder law cases to trial. Despite the numerous challenges inherent in prosecuting elder abuse cases, the benefits cannot be forgotten. These benefits include punishment of the abuser, as well as education and increased awareness within the community. For example, the prosecution of Anthony D. Marshall, accused of financially exploiting his elderly mother, New York socialite and philanthropist Brooke Astor, garnered nationwide publicity.⁶⁴ Marshall was convicted of fourteen counts, including first-degree grand larceny for taking \$1 million from his mother while she was under his care.⁶⁵

2. Legislation

Numerous federal and state laws exist to protect elderly populations from mistreatment. At the federal level, the government's role mainly involves establishing and maintaining agencies that distribute grants to state agencies and programs, where prevention of elder abuse legislation is carried out.

Laws protecting the elderly from abuse primarily began with Congress's passage of the 1965 Older Americans Act ("OAA").⁶⁶ The OAA allocates grants to states to create social services for the elderly. It is also the mechanism through which the elderly and their caretakers receive social services.⁶⁷ Furthermore, the OAA founded the Administration on Aging ("AOA"), which administers the states' grants and acts as the federal resource on elderly matters.⁶⁸ Subsequently, Title XX of the Social Security Act of 1974 provided grants that enabled states to create adult protective services agencies.⁶⁹ More legislation regarding the protection of the elderly population materialized in the late 1980s and 1990s as public attention turned to the need for elder abuse

63. Aileen Wiglesworth et al., *Findings From an Elder Abuse Forensic Center*, 46 GERONTOLOGIST 277, 283 (2006).

64. James Barron, *Brooke Astor's Son is Sentenced to Prison*, N.Y. TIMES, Dec. 21, 2009, at A31, available at <http://www.nytimes.com/2009/12/22/nyregion/22astor.html>.

65. *Id.*

66. OREGON DEP'T OF HUMAN SERVS., HISTORY OF THE OLDER AMERICANS ACT 2, http://www.dhs.state.or.us/spd/tools/cm/oa/history_mar06.pdf (last visited Feb. 3, 2013).

67. *Older Americans Act*, ADM'N ON AGING, http://www.aoa.gov/AoARoot/AoA_Programs/OAA/index.aspx (last modified Dec. 27, 2010).

68. *Id.*

69. *History of NAPSA: The Role of Adult Protective Services in Addressing Abuse*, NAT'L ADULT PROTECTIVE SERVS. ASS'N, <http://apsnetwork.org/About/history.htm> (last visited Feb. 1, 2013).

prevention programs.⁷⁰ Since 1992, the OAA has spent about \$4.5 million for programs geared toward “the prevention of elder abuse, neglect, and exploitation.”⁷¹

All states have legislation addressing protection for the elderly. The laws are state-specific, but almost all state statutes focus on child abuse legislation.⁷² These statutes inherently lack the full range of protection needed for the elderly. Legislation protecting the elderly from abuse are generally categorized as (1) criminalizing elder mistreatment; (2) governing APS or other protection and advocacy agencies; and (3) mandating certain individuals, like physicians, to report suspected elder abuse.⁷³

First, laws protecting the elderly in Alaska are derived from Title 47, “Welfare, Social Services and Institutions,” of the Alaska Statutes. While the entire Title encompasses legislation pertinent to protecting Alaska elders, one of the most important pieces of legislation is Chapter 24, entitled “Protection of Vulnerable Adults,” which governs protection against “abandonment, exploitation, abuse, neglect, or self-neglect.”⁷⁴

Second, Alaska legislation provides for the creation of the following elderly protection agencies: the Alaska Commission on Aging (“ACoA”), the LTCO, and the Office of Public Advocacy (“OPA”). The APS, a division of the Alaska Department of Health and Social Service’s Senior and Disabilities Services unit, is the primary agency that investigates reports of elder abuse in Alaska.⁷⁵ The APS’s other responsibilities include placing vulnerable elders in protective placement, engaging in guardianship proceedings, and conducting necessary training for members in communities to provide services.⁷⁶ The ACoA was created in 1982 for the main purpose of advocacy, building awareness, and fostering cooperation with other agencies assisting the elderly population in Alaska.⁷⁷ Similar to the APS, the LTCO investigates and resolves reports of elder abuse, but the LTCO specifically focuses on abuse to residents of long-term care facilities.⁷⁸

70. *Federal Elder Abuse Legislation*, ARK. ADULT PROTECTIVE SERVS., <http://www.aradultprotection.com/Evolved.htm> (last visited Feb. 1, 2013).

71. *Id.*

72. *Factsheets: Elder Abuse and the Law*, N.Y.C. ALLIANCE AGAINST SEXUAL ASSAULT, http://www.svfreenyc.org/survivors_factsheet_74.html (last visited Feb. 1, 2013).

73. Berson, *supra* note 56.

74. ALASKA STAT. § 47.24.010 (2012).

75. *APS Program Information*, *supra* note 43.

76. *Id.*

77. FY 2010 ANNUAL REPORT, *supra* note 1, at 4.

78. *Overview*, OFFICE OF THE LONG TERM CARE OMBUDSMAN, <http://www.akoltco.org/index.cfm?section=about> (last visited Feb. 1, 2013).

Additionally, the LTCO advocates for legislation to protect the safety and rights of Alaska elders.⁷⁹ The OPA provides assistance to the elderly needing protection by representing indigent seniors in guardianship proceedings⁸⁰ and serving as a guardian for elders.⁸¹ The OPA also houses the Office of Elder Fraud and Assistance unit that investigates reports of financial exploitation.⁸²

Section 47.24.010 of the Alaska Statutes classifies various professionals as reporters “who, in the performance of their professional duties” must report elder “abandonment, exploitation, abuse, neglect, or self-neglect . . . not later than 24 hours after first having causes for the belief.”⁸³ In addition to health care professionals, nursing and residential care workers, and law enforcement personnel, individuals required to report harm include clergy, Village Public Safety Officers (the equivalent of police in villages without police presence), and employees of agencies that receive grants from the Department of Administration to provide services to seniors.⁸⁴

Nevertheless, mandatory reporting of elder abuse does not curb the failure to report elder abuse. A lack of reporting can be ascribed to many factors. One of the problems lies with the victim: the elderly are reluctant to report abuse by family members.⁸⁵ Another major problem is that physicians, despite being in the best position to report elder abuse, fail to report due to insufficient training. It is not uncommon that “[a] physician visit may be an elderly person’s only source of interaction outside the home.”⁸⁶ However, studies have shown that physicians failed to report elder abuse because of denial by the elderly, minimal signs of blatant abuse, and overall uncertainty regarding reporting laws, procedures, and resources.⁸⁷ The important responsibility of correctly determining abuse versus accidental injury remains with physicians, but additional education and training for physicians is necessary to aid them in identifying and reporting abuse. Increased education and training will benefit both physicians and other members of service agencies and non-professionals involved in the protection of the elderly.

79. *Id.*

80. *Types of Civil Representation*, OFFICE OF PUB. ADVOCACY, http://doa.alaska.gov/opa/attorn_respondent.html (last visited Feb. 1, 2013).

81. *Public Guardianship*, OFFICE OF PUB. ADVOCACY, http://doa.alaska.gov/opa/pg/pub_guard.html (last visited Feb. 1, 2013).

82. STATE PLAN, *supra* note 5, at 27.

83. ALASKA STAT. § 47.24.010 (2012).

84. *Adult Protective Services (APS)*, SENIOR & DISABILITIES SERVS., <http://dhss.alaska.gov/dsds/Pages/aps/default.aspx> (last visited Feb. 1, 2013).

85. Bulman, *supra* note 59.

86. Gibbs & Mosqueda, *supra* note 12.

87. *Id.*

III. JUSTICE FOR THE ELDERLY: THE ELDER JUSTICE ACT

A. Specifics of the EJA

Senator John B. Breaux, Chairman of the Senate Special Committee on Aging, first introduced the EJA in 2002 during the 107th Congress. Motivated by the absence of federal legislation that “addresse[d] elder abuse in a comprehensive fashion,”⁸⁸ the bill sought to combat elder abuse and financial exploitation by advancing and improving the response to elder abuse both at the federal and state level. According to a 2002 policy report on elder abuse submitted by the American Bar Association, “[t]he federal government’s support of the elder abuse field has been negligible compared to child abuse and domestic violence. The lack of federal support and leadership has led to a patchwork of state responses and efforts to increase federal funding for elder abuse have failed.”⁸⁹ Provisions of the bill emphasized federal leadership by creating various agencies and commissions that would engage in development of resources, services, and training.⁹⁰ Additionally, the bill provided for grants to state agencies and programs that provide services for the elderly.⁹¹ Unfortunately, the legislation stalled until 2010 when the 111th Congress passed the EJA as part of the historical health care reform bill, the Patient Protection and Affordable Care Act (“PPACA”).

Somewhere hidden within the complex layers of the PPACA is the EJA, which was accompanied by two other types of legislation intended to support the elderly. First, the Patient Safety and Abuse Prevention Act helps ensure that people who care for seniors provide a safe living environment and do not abuse or neglect seniors.⁹² Further, this law establishes a nationwide program requiring national and state background checks for caretakers.⁹³ Second, the Nursing Home Transparency and Improvement Act increases accountability in nursing homes through reporting requirements that allow the public to evaluate

88. *Legislative Updates*, OFFICE OF LEGISLATIVE POLICY AND ANALYSIS, <http://olpa.od.nih.gov/legislation/107/pendinglegislation/elderjusticeact.asp> (last visited Feb. 1, 2013).

89. *Recommendation*, AM. BAR ASS’N COMM’N ON LEGAL PROBLEMS OF THE ELDERLY, http://www.americanbar.org/content/dam/aba/migrated/aging/resources/docs/elder_abuse.authcheckdam.pdf (last visited Feb. 1, 2013).

90. *Legislative Updates*, *supra* note 88.

91. *Id.*

92. See Patient Safety and Abuse Protection Act of 2009, S. 631, 111th Cong. § 2(b) (2009) (stating as a purpose of the bill the provision for nationwide expansion of the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers), available at <http://www.gpo.gov/fdsys/pkg/BILLS-111s631is/pdf/BILLS-111s631is.pdf>.

93. 42 U.S.C. § 1320a-7l (2012).

and compare the nursing homes.⁹⁴

The EJA, in short, “[r]equires the Health and Human Services [“HHS”] secretary to award grants and carry out activities that provide greater protection to those individuals seeking care in facilities providing long-term services and supports, as well as promote the expansion and improvement of the long-term care workforce.”⁹⁵ The amount of money authorized under the EJA totals \$777 million over a period of four years.⁹⁶ Funds from the EJA are allocated to various activities, such as creating forensic centers and enhancing staffing and training. The APS funding comprises more than half of the entire funding (approximately 64 percent) in the act.⁹⁷ The EJA dedicates \$400 million (divided into \$100 million annually) to first-time funding for the APS, in addition to \$100 million (divided into \$25 million annually) in state grants for testing to improve the APS.⁹⁸ To step up federal involvement, the EJA created an Elder Justice Coordinating Council and Advisory Board designed to make recommendations to the HHS Secretary regarding coordination of activities relating to elder abuse and creation of multidisciplinary plans to tackle elder justice issues, respectively.⁹⁹ Further, the EJA places more responsibility on long-term care facilities regarding abuse of elders by subjecting them to punishment for failures to report instances of elder harm at the facility.¹⁰⁰ Further still, long-term care facilities are prohibited from retaliating against whistleblowing employees.¹⁰¹

94. FAMILIES USA, BETTER SAFETY AND QUALITY FOR SENIORS AND PEOPLE WITH DISABILITIES 1 (2010), available at <http://familiesusa2.org/assets/pdfs/health-reform/in-perspective/Seniors-and-People-with-Disabilities.pdf>.

95. *Elder Justice: Section 6703 of the Patient Protection and Affordable Care Act*, 6 OFF. HEALTH REFORM INTEGRATION HEALTH REFORM ISSUE BRIEFS Issue 11, 1 (2010), available at <http://hcr.amerigroupcorp.com/wp-content/uploads/2011/02/Vol-6-Issue-10.pdf>.

96. *Elder Justice Act Summary*, THE ELDER JUSTICE COAL., <http://www.elderjusticecoalition.com/docs/EJA-Summary-772010.pdf> (last visited Feb. 3, 2013).

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.*

101. *Id.*

B. The EJA and Alaska

*"I am an advocate for all the people in Alaska, especially the elders in rural and remote communities where information is hard to come by."*¹⁰²

What does the passing of the EJA mean for Alaska's elderly population? Theoretically, more funding via the EJA will free up state funding for other activities that focus on protecting Alaska seniors. Like the elderly population in the lower 48, Alaska's elderly span throughout the entire state, from the Aleutians to Barrow. Unlike the lower 48, however, Alaska's massive size makes for extreme difficulty in providing care and services to the elderly.

Approximately 70% of Alaska is inaccessible by road.¹⁰³ Airplanes are necessary for reaching many parts of Alaska, making frequent travel an expensive proposition.¹⁰⁴ This is especially relevant for elders who live in remote villages, such as those from the northernmost village of Barrow, down to the southernmost village of Adak. For example, Alaska Native Elders in Bethel, comprising 9.3% of the area's population aged 60 and above,¹⁰⁵ voiced their lack of interest in moving elsewhere to receive services.¹⁰⁶

According to the ACoA, "[E]lders want to be surrounded by the food, language, people, and environment that are familiar to them."¹⁰⁷ Service providers are required to travel from larger cities, such as Anchorage or Fairbanks, to provide needed services. Consequently, the costs related to providing services end up so exorbitantly high as to make actions feasible.

Because of transportation difficulties, many goods cost much more in remote villages than in big cities.¹⁰⁸ It follows that the operating costs

102. FY 2010 ANNUAL REPORT, *supra* note 1, at 10 (quoting Iver Maluton, public member of the ACoA from Kodiak).

103. *Alaska Challenges*, ALASKA FED. HEALTH CARE P'SHIP <http://www.afhpc.org/about/alaska-challenges/> (last visited Feb. 1, 2013).

104. *Id.*

105. ALASKA COMM'N ON AGING, FY 2011 ANNUAL REPORT 25 (2011), *available at* http://dhss.alaska.gov/acoa/Documents/documents/ACOA_FY2011.pdf.

106. *See Bethel Elders Share Needs at ACoA Community Forum*, ALASKA SENIORS: LIVING LONGER, GROWING STRONGER (Alaska Comm'n on Aging, Juneau, Alaska), Fall 2010, at 1, 15, *available at* <http://dhss.alaska.gov/acoa/Documents/livinglonger/newsletter/Fall2010.pdf> ("Many noted that elders do best in their own homes and communities, and that a move to an urban hub because they can't get the care they need locally has a negative impact on their well-being; elders want to be surrounded by the food, language, people and environment that are familiar to them. Caregivers said they would like to have respite care and a support system available.").

107. *Id.*

108. *See* Mark Thiessen, *Nome Residents Roll with Higher Fuel Prices*,

associated with medical services would also be relatively more expensive. Since funds currently allotted to the APS and LTCO will be supplemented by EJA funds, the State of Alaska can earmark available funds for providing services to the elders in villages that are in desperate need of more financial assistance. Additional funds could create more elder protection agencies. In particular, Alaska seniors would benefit from having an elder abuse forensic center. Thus, the EJA should provide funding for the State of Alaska to establish forensic centers focused on cooperative, multidisciplinary protection of the elderly.

C. Limitations of the EJA

Despite the many positive outcomes that will result from the EJA, significant limitations prevent the EJA from coming to fruition. First, no funding has been appropriated to sustain the EJA and its promise to allocate massive amounts of funds for providing financial support nationwide.¹⁰⁹ Second, the EJA has no “justice-related provisions.” When first introduced in 2002, the EJA contained provisions that posed elder abuse as a “multifaceted problem that often requires the involvement and intervention of the criminal and civil justice systems”¹¹⁰ The current provision lacks such language.

IV. COMBATING ELDER ABUSE IN ALASKA

“I see a lot of aging people and I get worried about them. Many times they have to move somewhere else when the services are not provided in the villages where they live. I want to make sure people have the services where they live when they need them. Old people don’t like to move.”¹¹¹

With or without the aid to be allotted under the EJA, there are two approaches to addressing the issue of elder abuse in Alaska. First, the Alaska court system should adopt court-focused elder abuse initiatives.

ANCHORAGE DAILY NEWS, Mar. 29, 2012, available at http://www.adn.com/2012/03/29/2397173/nome-residents-roll-with-higher.html?story_link=email_msg (“There are plentiful, painful reminders all over this [Bering] Sea coastal community. At the grocery store, it's \$39.25 for a 12-roll package of paper towels. Toilet paper costs \$37.85 for a 36-roll package.”).

109. Lori A. Stiegel, *Elder Justice Act Becomes Law, but Victory is Only Partial*, 31(4) BIFOCAL 1, 1 (2010), available at http://www.americanbar.org/content/dam/aba/migrated/aging/PublicDocuments/eja_act_art_prtl.authcheckdam.pdf.

110. *Id.*

111. FY 2010 ANNUAL REPORT, *supra* note 1, at 11 (quoting Eleanor Dementi, public member of the AcoA from Cantwell).

Second, the state should establish an elder abuse forensic center to combat elder abuse. Both of these approaches require a multidisciplinary collaboration between courts, government entities, and agencies in order to efficiently tackle these complex cases and work towards the goal of protecting elders against abuse.

A. Court-Focused Elder Abuse Initiatives

A court-focused elder abuse initiative is “either a (1) court or court-based program or (2) a program conducted in partnership with a court, both of which serve victims or potential victims of elder abuse.”¹¹² Court-focused programs help elder abuse victims by alleviating some of the significant barriers that these victims face when trying to pursue legal remedies for their tribulations. Some impediments that elders face include (1) unawareness of remedies available, (2) deficiencies in legal services for the elderly, (3) mobility problems affecting the ability to travel to and to sit in court, (4) fear or ignorance of procedures, (5) unawareness by professionals, and (6) disparate impact resulting from typical court practices.¹¹³

The ABA Commission on Law and Aging in conjunction with the University of Kentucky College of Public Health, Department of Gerontology, conducted a study of five court-focused elder abuse initiatives to determine the benefits to having these court programs. The study made three categorizations of programs: elder protection court, elder justice centers, and elder protection order projects.¹¹⁴ The study found that court programs benefit elders by enhancing their access to justice and ensuring their safety.¹¹⁵ Further, training and education of persons involved in elder abuse cases enhances intra-court coordination and fosters efficient prosecution by allowing cases to be expedited.¹¹⁶ Educated judges, prosecutors, and other professionals can then use their leadership positions in the community to enable accommodation of

112. LORI A. STIEGEL & PAMELA B. TEASTER, AM. BAR ASS'N COMM'N ON LAW AND AGING, FINAL TECHNICAL REPORT TO THE NATIONAL INSTITUTE OF JUSTICE ON “A MULTI-SITE ASSESSMENT OF FIVE COURT-FOCUSED ELDER ABUSE INITIATIVES” vi (2011), available at http://www.americanbar.org/content/dam/aba/uncategorized/2011/2011_aging_ea_multi_assess.authcheckdam.pdf.

113. LORI A. STIEGEL, AM. BAR ASS'N COMM'N ON LAW AND AGING, COURT-FOCUSED ELDER ABUSE INITIATIVES: RESULTS OF AN ASSESSMENT 2, available at <http://csppl.uis.edu/ILLAPS/DOA/conferences/documents/Handouts/Court-Focused%20Elder%20Abuse%20Initiatives%20Results%20of%20an%20Assessment.pdf> (slide 5) (citation omitted).

114. *Id.* at 3 (slide 7).

115. *See id.* (slides 8–11) (listing court programs that benefit elders by ensuring access to justice and safety).

116. *Id.* at 3–4 (slides 8, 12).

elders with disabilities, provide elders emotional support, and educate elders about available services.¹¹⁷

1. *Implementing a Court Program in Alaska*

How would a court-focused elder abuse initiative work in Alaska, exactly? The National Center for State Courts provides a “Problem-Solving Toolkit” to develop either an Elder Justice Center (EJC) or an Elder Protection Court (EPC).¹¹⁸ Both types of courts are sensitive to the plights of the elderly, but EJCs focus more on improving access to the justice system, while EPCs focus more on preventing and treating elder abuse.¹¹⁹ Regardless, developing both EJCs and EPCs would be useful in Alaska.

The Problem-Solving Toolkit provides twelve steps involved in implementing EJCs and EPCs, or “problem-solving court programs.”¹²⁰ However, prior to implementing any program, judges, court staff, and other professionals that work with cases of elder abuse must be trained¹²¹ as currently no form of education or training informs such workers even generally on elder abuse. Training would include identifying and responding to elder abuse as well as learning about the resources that courts may rely upon to help protect the elderly from further abuse. Due to Alaska’s unique nature, the training would “need to incorporate more flexibility in order to adequately compensate programs operating in remote areas.”¹²²

117. *Id.* (slides 8–9).

118. See generally CASEY ET AL., NAT’L CTR. FOR STATE COURTS, PROBLEM-SOLVING JUSTICE TOOLKIT (2007), available at http://www.ncsconline.org/D_Research/Documents/ProbSolvJustTool.pdf (providing a blueprint for how to implement a problem-solving approach which focuses on “defendants and litigants whose underlying medical and social problems have contributed to recurring contacts with the justice system”).

119. See *Creating Multi-Agency Responses*, CTR. FOR ELDER AND THE COURTS, <http://www.eldersandcourts.org/Aging/The-Role-of-the-Courts/Creating-MultiAgency-Responses.aspx> (last visited Feb. 2, 2013) (listing five primary functions of EJC and services offered by EPC).

120. CASEY ET AL., *supra* note 118, at 9.

121. STIEGEL & TEASTER, *supra* note 112, at 6.

122. *Bethel Elders Share Needs at ACoA Community Forum*, *supra* note 106, at 15.

Table 1. Steps for Developing Court Programs¹²³

Step 1	Identify stakeholders to involve in the planning process
Step 2	Identify possible models for the court-centered program
Step 3	Identify program goals and objectives
Step 4	Define target population and screening criteria
Step 5	Define terms of program participation (legal status, fees/fines, attorney representation, confidentiality)
Step 6	Define primary substantive program elements (assessment, intervention and service delivery, monitoring, incentives/sanctions, completion and follow-up)
Step 7	Determine resources necessary and available to implement program elements
Step 8	Determine how the program will be phased in
Step 9	Specify management structure and program procedures
Step 10	Provide education and training for stakeholders and program staff
Step 11	Determine when and how to disseminate program information to the public
Step 12	Evaluate the program (use results for improvement)

2. Limitations and Challenges

According to the ABA/University of Kentucky study, a number of problems resulted from implementing court-focused elder abuse initiatives.¹²⁴ First, the role that the courts played sometimes produced conflicts of interest or ethical concerns, however, these issues did not make the programs impractical, just slightly problematic at times.¹²⁵ Second, the study found that issues arose when key members of the staff no longer worked on the initiative for one reason or another.¹²⁶ Maintaining open lines of communication and ensuring sufficient planning for the transitions can prevent these setbacks. Third, the programs lacked true data to validate their efficiency and benefits.¹²⁷ Data collected in the study pointed to subjective beliefs of the programs' efficiency by the stakeholders.¹²⁸ Last, the programs did not demonstrate independent sustainability: government programs are no strangers to budget cuts; hence, finding a secure source of funding is a constant

123. CASEY ET AL., *supra* note 118, at 9.

124. STEIGEL & TEASTER, *supra* note 112, at 42-44.

125. *Id.* at 9.

126. *Id.* at 33.

127. *Id.* at 43.

128. *Id.*

struggle.¹²⁹

Most importantly in the case of Alaska, where actual implementation of such a program would require a lot of planning and coordination between the court and agencies or stakeholders, the question remains: how feasible will this be in remote communities? As budgetary concerns are at the crux of an answer to this question, funding from the EJA would alleviate some of the burden from the State, thereby allowing it to siphon some available funds towards these programs. Though there are challenges to instituting a court-focused elder abuse initiative, the benefits certainly outweigh any of the limitations stated above.

B. Elder Abuse Forensic Center

Elder abuse forensic centers (EAFCS) have “changed the way elder abuse cases are investigated and prosecuted”¹³⁰ EAFCS are multidisciplinary collaborations between agencies geared towards the protection of elders and prevention of elder abuse. Member-agencies in EAFCS are from medical providers (e.g., geriatricians, mental health services), social services (e.g., APS, LTCO, domestic violence services, victim-witness program, public guardian office), and law enforcement professions (e.g., district attorney’s office, attorney general’s office, police department).¹³¹

Multiple rationales justify implementing multidisciplinary collaboration for elder abuse cases. First, elder abuse cases bring up complex issues and often require coordination between different types of specialists.¹³² Second, the lack of communication between separate agencies impedes the process of investigating and prosecuting cases. “Often, law enforcement, social service agencies, and public guardianship officials do not interact on a daily basis, and in effect speak different languages and have different (and sometimes competing) priorities and definitions of what constitutes a good outcome in an elder abuse case.”¹³³

The first EAFCS was founded in 2003, and is housed at the

129. *See id.* (suggesting that in order to ensure long-term survival and insulation from funding changes, the initiatives should be institutionalized).

130. CATHERINE MCNAMEE & CARRIE MULFORD, INNOVATIONS ASSESSMENT OF THE ELDER ABUSE FORENSIC CENTER OF ORANGE COUNTY, CALIFORNIA 1 (2007), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/220331.pdf>.

131. Wigglesworth et al., *supra* note 63, at 277-78.

132. *See* MCNAMEE & MULFORD, *supra* note 130, at 1 (explaining how elder abuse cases often involve multiple forms of abuse and thus require collaboration between medical, legal, and social service professionals).

133. *Id.* at 3.

University of California-Irvine School of Medicine.¹³⁴ The primary responsibilities of that EAFC consist of (1) multi-disciplinary case review and action plan creation; (2) medical, mental, and evidentiary investigations; (3) education and training; (4) victim interviews; and (5) consultation with various professionals as needed.¹³⁵ Crucial to the success of the first EAFC was the amount of collaboration that occurred: “experts from multiple disciplines work[ed] from a shared location and conduct[ed] biweekly case meetings.”¹³⁶

As other EAFCs began popping up elsewhere, studies were conducted to determine the efficiency and effectiveness of the multidisciplinary collaboration. Research has shown that EAFCs enhance the community’s ability to cope with elder abuse.¹³⁷ Indeed, the “multidisciplinary collaboration response model has been touted as the optimal method of responding to a myriad of under-reported crimes” and “community collaboration efforts are playing an increasingly important role in improving system response to crimes against seniors.”¹³⁸

1. *Implementing an EAFC in Alaska*

The current administration in Alaska would likely welcome instituting an EAFC. Governor Sean Parnell often advocates for the protection of elders against abuse, urging the Alaska legislature to pass legislation and promoting awareness of the issue.¹³⁹

Developing an EAFC in Alaska would require following the methods and procedures used by the first EAFC at UC-Irvine as well as utilizing the possible solutions for elder abuse in Alaska as proposed by the ACoA. First, representatives from Alaska’s medical profession (e.g., geriatric and mental health physicians), social services agencies (e.g., ACoA, APS, LTCO, Aging and Disabilities Resource Center, Victim-

134. Wiglesworth et al., *supra* note 63, at 277.

135. *Services*, ELDER ABUSE FORENSIC CENTR., <http://www.elderabuseforensiccenter.com/index.cfm?fuseaction=dsp&page=services> (last visited Feb. 2, 2013).

136. Wiglesworth et al., *supra* note 63, at 277.

137. *See id.* (“Studies have indicated the need for collaboration, and elder abuse experts have called for multidisciplinary and interdisciplinary programs.”) (citations omitted).

138. MCNAMEE & MULFORD, *supra* note 130, at 1-- 2.

139. *See* Press Release, Office of Governor Sean Parnell, Gov’s Vulnerable Adults Bill Passes Senate (Feb. 17, 2012), *available at* <http://gov.alaska.gov/parnell/press-room/full-press-release.html?pr=6036> (“Governor Sean Parnell today welcomed the Alaska Senate’s passage of legislation strengthening penalties for criminals who target some of the state’s most vulnerable citizens.”); FY 2010 ANNUAL REPORT, *supra* note 1, at 37 (“The Commission was pleased to support Governor Sean Parnell’s comprehensive domestic violence initiative in 2010. A little-acknowledged facet of domestic violence, elder abuse can take many forms, including physical abuse, neglect, and financial exploitation.”).

Witness Assistance), and law enforcement profession (e.g., State of Alaska Department of Law, Alaska State Troopers) would have to meet and agree that “abuse of vulnerable adults cannot be addressed without collaboration” and that these “agencies want[] to collaborate”¹⁴⁰

To ensure that services have a statewide reach, the EAFC must tailor its services to the needs of Alaska Native Elders living in rural villages separately from the urban population of seniors in the state. In this sense, an EAFC in Alaska would be unique from those in other states. There are a number of ways to achieve this statewide reach. Representatives from the EAFC could regularly travel across the state to check in on elders in various village communities in rural Alaska. Alternatively, the EAFC could open two main offices, one in Anchorage and one in Fairbanks, and then evenly distribute services between the offices. The ACoA’s State Plan for elderly services in Alaska “emphasiz[es] that a balance of available services throughout the state works to everyone’s advantage” wherein “rural elders are enabled to remain at home in their later years, where they may continue to enhance their families and communities”¹⁴¹

Regional-level planning is crucial to the success of an Alaskan EAFC. An increase in tele-health and remote monitoring, for example, would allow the Native Elders to receive adequate health care from doctors while remaining in their villages, which may be hundreds of miles away.¹⁴² Tele-health and remote monitoring provide “real-time interactions between remotely located patients and doctors”¹⁴³ Using this method would serve Alaska by reducing costs and travel time while increasing productivity.

Additionally, the EAFC must tailor its recommendations for Native Elders and members of their community to “bridge the cultural gap.”¹⁴⁴ Since Alaska Natives are closely tied to their traditions and beliefs, “any actions taken must incorporate the unique histories and cultures of the people”¹⁴⁵ An Alaskan EAFC must modify its procedures to be more sensitive to issues that concern the elderly Alaska Native population. As mentioned above, many of Alaska’s Native elderly were traumatized by the colonization of Alaska by the Russians. Thus, an EAFC should sensitively consider the following: 1) the lack of use of the English language and literacy, (2) distrust of non-native services, (3) issues with the lack of respect from service providers to elders, and (4) a

140. MCNAMEE & MULFORD, *supra* note 130, at 4.

141. FY 2010 ANNUAL REPORT, *supra* note 1, at 37.

142. *Id.*

143. *Id.*

144. ELDER ABUSE AMONG ALASKA NATIVES, *supra* note 22, at 9.

145. *Id.*

general reluctance to accept services.¹⁴⁶ As the success of the program will turn on cultural awareness and respect, the EAFC must educate its workers on such matters in order to create a productive program.

2. *Limitations and Challenges*

Studies have shown that despite the need for multidisciplinary collaboration in tackling elder abuse cases, establishing such a center will still face difficulties. First, while a communal workplace is central to the success of an EAFC, one location to service the whole of Alaska would be difficult. Thus, as previously mentioned, multiple offices pose another solution, while tele-health and remote monitoring may be the best prospect.

Second, an EAFC will be costly to sustain. Studies of EAFCs have only produced estimates of the costs of these programs. For example, the UC-Irvine EAFC could only approximate costs from clinician work; these include home visits (\$475 per clinician) and fees for chairing meetings (\$380 per weekly meeting).¹⁴⁷ The costs of other member-agencies were not obtained, but they claim that the collaboration enabled them to save resources, which increased efficiency.¹⁴⁸ However, with the impending passage of the EJA, Alaska stands to gain a substantial allocation of funds to support this program.

Additional sources of funding could also come from grants allotted to service projects by the Department of Justice (DOJ). Specifically, the DOJ grants funds to programs pertaining to tribal assistance and to domestic violence. One DOJ tribal grant in particular is the "Coordinated Tribal Assistance Solicitation."¹⁴⁹ This grant "furthers the [DOJ]'s mission by providing federally-recognized Tribes and Tribal consortia an opportunity to develop a comprehensive and coordinated approach to public safety and victimization issues and to apply for funding to reduce and prevent crime and victimization."¹⁵⁰ A grant like this, however, is geared more towards prevention of sexual crimes and crimes dealing with juveniles. This again demonstrates the need to move elder abuse into the public discourse.

DOJ funding can also come in the form of a domestic violence grant from the Office of Violence Against Women.¹⁵¹ The types of grants

146. *Id.* at 10.

147. MCNAMEE & MULFORD, *supra* note 130, at 15.

148. *Id.* at 16.

149. U.S. DEP'T OF JUSTICE, U.S. DEPARTMENT OF JUSTICE COORDINATED TRIBAL ASSISTANCE SOLICITATION: FISCAL YEAR 2012 COMPETITIVE GRANT ANNOUNCEMENT *i*, available at <http://www.justice.gov/tribal/ctas2012/ctas-solicitation.pdf>.

150. *Id.*

151. *Grant Programs*, U.S. DEP'T OF JUSTICE, OFFICE ON VIOLENCE AGAINST WOMEN, <http://www.ovw.usdoj.gov/ovwgrantprograms.htm> (last visited Feb.

relevant to the issue of elder abuse under this funding category are: (1) rural grant programs, (2) legal assistance for victims grant programs, (3) grants to encourage arrest policies and enforcement of protection orders, and (4) grants to tribal domestic violence.¹⁵² Multiple service agencies in Alaska have received funds from the Office of Violence Against Women. In fiscal year 2010, twenty-three grantees in Alaska received a total of \$10,370,576 for their respective programs.¹⁵³ Undoubtedly, the DOJ would consider funding an Alaskan EAFC under this or their tribal grants funding.

A final limitation of an EAFC is the severely limited “ability to follow subjects after their role has concluded in the case (whether through final disposition or lack of pursuit of the case).”¹⁵⁴ Once a case closes, the APS and the EAFC can only contact the victim after another report of abuse. Still, despite the limitations and challenges, EAFCs promote awareness and ensure that elderly populations utilize the social services available to them. Further, because not all instances of abuse call for prosecution, a multidisciplinary approach provides alternative methods to resolve cases.¹⁵⁵

CONCLUSION

“Our vision is about our people. Because, happiness cannot be measured in dollars. Today, too many Alaskans live in fear. Too many suffer from domestic violence and sexual assault. Too many Alaskans know despair and hopelessness. In OUR vision, Alaskans live free of fear, Alaskans live every day with hope and opportunity in view.”¹⁵⁶

Nationwide reports of elder abuse escalate every year. Given that the elderly population in Alaska is rising faster than anywhere else in the country and reports of elder abuse are rising at an increasing rate, the State must offer services to protect the elders. Further, the lack of public awareness of the issue places a premium on education and

2, 2013).

152. *Id.*

153. FY 2010 OVW Grant Awards by State, U.S. DEP’T OF JUSTICE, OFFICE ON VIOLENCE AGAINST WOMEN, <http://www.ovw.usdoj.gov/grant2010.htm> (last visited Feb. 2, 2013).

154. MCNAMEE & MULFORD, *supra* note 130, at 16.

155. See Wigglesworth et al., *supra* note 63, at 282 (“Other survey comments pointed to the efficiencies attributable to the EAFC’s frequent meetings and multidisciplinary collaborative relationships.”).

156. FY 2010 ANNUAL REPORT, *supra* note 1, at 37 (referencing remarks of Alaska Governor Sean Parnell).

training in order to provide efficient services.¹⁵⁷ With hopes that the EJA will pass and provide funding for elder protection programs and agencies, Alaska would stand to benefit by developing court-focused elder abuse initiatives and elder abuse forensic centers. Without federal leadership and guidance that accompany these funds, however, the possibility of having these programs is up in the air. But with a renewed sense of urgency in protecting the elderly population of Alaska, as expressed by Alaska Governor Sean Parnell, Alaska seniors can have a positive hope in the promise of gaining more protection and assistance in the future.

157. See Olson, *supra* note 6 (describing elder abuse as “a national blind spot”).