

Testimony and Comment

before the

**House Aging and
Older Adult Service Committee**

**“The Role of Government in
Addressing Elder Abuse”**

Submitted by:

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and
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Protective Service/Guardianship Committee**

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Good Morning. My name is Alan Smith and I am the Director of the Huntingdon-Bedford-Fulton Area Agency on Aging, a public agency under the governance of the Commissioners of Huntingdon, Bedford and Fulton Counties, a position that as of next Wednesday I have held for 32 years. In 2005 I was a Congressional delegate to the White House Conference on Aging. I currently serve as Chair of the Pennsylvania Association of Area Agencies on Aging's active Protective Service/Guardianship Committee and based on this Chairmanship I was privileged to represent all of Pennsylvania's 52 Area Agencies on Aging at the informational hearing that this Committee convened in March of last year and was equally privileged to represent AAA's at the Elder Abuse Awareness Day held here at the Capital in June along with Lieutenant Governor Crawley, Representative Hennessy, Secretary Duke of the Department of Aging and Huntingdon County District Attorney George Zanic.

During my comments at the Committee's informational session, I recognized the contributions that Sharon Schwartz has made to aging services and the value of her input and insight at the Protective Service/Guardianship Committee meetings and this advocacy for older persons continues. I also recognize the consultation, collaboration and commitment of Dr. Ron Costen, Esq., of Temple University and he is the leading voice for protecting older Pennsylvanians through his leadership with the Institute on Protective Service at Temple.

In regard to the Protective Service/Guardianship Committee, it is a Committee that over the past two years has grown substantially to approximately 40 practitioners, policy

makers and special guests faithfully convening quarterly. This interest is in response to a corresponding intense interest in complying with regulatory aspects of protecting older persons as set forth in the law and due to the growing number of complex and horrific cases with meetings providing an opportunity for dialogue on enhancing service delivery and learning from best practice and strengthening the partnership with the Department of Aging and the Institute

I am appreciative of the work of Denise Getgen at the Department of Aging for facilitating much of the discussion at the meetings and encouraging participation on the Committee and Secretary Duke for his solid support. As noted in March and in conjunction with today's session, a major component of the work of Area Agencies on Aging is carrying out the statutory and regulatory provisions of Pennsylvania's Older Adult Protective Service Act enacted in 1987 to protect Pennsylvania's elder citizens from abuse, neglect, exploitation and abandonment. As prescribed by the Act, individuals who reasonably believe that an individual age 60 and over is the subject of abuse, neglect, exploitation or abandonment are to report this to AAA's. The Act is emphatic that calls can be anonymous and that the identity of reporters are strictly confidential.

The Act directs that a system be set in place for receiving calls after normal business hours, weekends and holidays and in the case of our Agency, callers are directed to the "911" center and, in turn, an on-call worker. Also there is a statewide toll-free protective service number that automatically connects the caller to the local AAA's on-

call system.

Clearly AAA's are the front-line in the Commonwealth's commitment to protect our most frail and vulnerable citizens from abuse along with oversight from the Department of Aging. At this point much of the dialogue is about the interface with law enforcement based on a recognition that a growing number of cases, particularly financial exploitation, are crimes that need to be prosecuted. It is acknowledged that many counties have active Elder Abuse Task Forces and District Attorneys that aggressively pursue cases and I have a good working relationship with our District Attorneys and, as noted, George Zanic was part of the Elder Abuse Awareness Day when he described the successful prosecution of a financial exploitation case that resulted in a ten-year prison sentence for the perpetrator.

An obstacle, as confirmed by Dr. Costen, is that in rural areas there are few municipal police departments to support the work and the experience is that the state police have such extensive duties that they do not have an adequate work force to investigate and bring these cases to prosecution. This has been a frustration of protective service workers who collect literally hundreds of pages of financial documents and other evidence and find that it does not make its way through the prosecutorial process, but as noted there has been progress as a result of Dr. Costen and the Institute but this requires the resources to meet the growing need.

Another issue is that there remains much to be done to strengthen relationships

with the banking community which there has been good recent connection with the Department of Banking, but we continue to hear cases where banks do not consistently cooperate with protective service investigations, even though the law provides the authorization to review bank records and transactions.

Another issue of concern is that investigations substantiate perpetrators of abuse and though we identify a perpetrator, there are basically no sanctions or penalties. There has been growing support within the aging network that there be some type of registry of perpetrators of elder abuse that would prohibit them from serving as caregivers in nursing facilities, personal care homes and home health agencies. Since in the past year there has been discussion of this Committee's interest in reviewing and amending the Older Adult Protective Service Act, we would ask that there be consideration for some type of sanction against substantiated perpetrators. Of course in taking this into consideration we recognize Pennsylvania's Supreme Court's ruling in the Nixon case and the constitutionality of banning people from employment based on criminal convictions which has its foundation in the Older Adult Protective Service Act.

At this point we are formulating recommendations for amendments to OAPSA which we will be submitting to this Committee. I anticipate that recommendations will include language related to perpetrator notification, definition of capacity which I point out the reference to capacity in the Act is different than the definition used by the Court to determine the appropriateness of a guardianship, that there would be expansion of time

frames for completing financial exploitation cases, that the law would set forth that financial exploitation is a circumstance that would put older persons in eminent risk.

It is also recognized that the law will, in turn, result in changes to the regulation. Also there has been much discussion on required consent of an older person for carrying out an investigation and issues of expanding the list of mandatory reporters to include financial institutions, all social workers, EMS personnel and inspectors from the Department of Health and Welfare.

As we continue the work, it is essential to point out that to effectuate a responsive and consistent protective service program in all 67 counties of the Commonwealth, there is a need for resources. I had referenced this at a meeting that Dr. Costen and I had with other elected officials and when I was asked to define resources Dr. Costen quickly spoke on my behalf and said he is talking about money and having funds to access persons with special investigative skills, as an example, someone who understands banking and finance. Also I am aware that currently the Pennsylvania Commission on Crime and Delinquency is soliciting applications for funding to address a series of law enforcement issues, including protection of the elderly, and D.A. Zanic in collaboration with the Area Agency on Aging, is applying for these funds and we are hopeful that this will provide a source of revenue.

Though as a network we are grateful that aging funds have not been cut, the reality is that our ability to respond to the growing number of complex cases with credible,

thorough investigations takes money, and especially takes added resources to have the staff time to investigate the financial exploitation cases in which some older persons have extremely diverse financial positions. At about this time last year, the General Accountability Office, (GAO) released a report on the prevalence of abuse of older persons and sited the growing complexity of financial exploitation cases and that funding and other resources to effectively investigate and resolve cases have not kept pace with the number of reports. I ask the Committee to consider endorsing and supporting either an increase in the Lottery funding to the Department of Aging identified as Penn Care to be incorporated into the Block Grant with the understanding that it would be used for protective services or to allocate funds that would be allocated for protective services and provided to not supplant but to add to the existing resources that are already being allocated by each Area Agency on Aging to support this important work.

In March I talked about family dynamics and that there has been an overwhelming change in the family structure in our society and a growing number of dysfunctional, hateful relationships among brothers and sisters in relation to care and involvement with elder parents. I often wonder after being involved in so many of these cases if there are any loving, harmonious, functional families that are willing to work cooperatively on behalf of a parent or grandparent. There is the prevalence of accusation, bitterness, revenge and retribution and not reconciliation and this adds to the difficulty and also as people are not truthful when they contact legislators or the Department of Aging about the

case. Mistreatment of the elderly will add to Government's involvement and intervention in people's lives in the effort to protect elder citizens. Our Commonwealth may not be able to bring civility among families and a spirit of harmony and fellowship, but we can resolve to embrace justice and pledge to all Pennsylvanians that our elder citizens will not be abused, neglected or exploited and that the collective character of the General Assembly is firmly founded in respecting and honoring the dignity of our fathers and mothers.
