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**PUBLIC HEARING**

before

**ASSEMBLY SENIOR CITIZENS COMMITTEE**

(Prevention and deterrence of crime and  
abuse against senior citizens)

September 15, 1986  
Room 341  
State House Annex  
Trenton, New Jersey

**MEMBERS OF COMMITTEE PRESENT:**

- Assemblyman John E. Rooney, Chairman
- Assemblyman Robert W. Singer, Vice Chairman
- Assemblyman Jeffrey W. Moran
- Assemblywoman Dolores Cooper
- Assemblyman Walter M. D. Kern, Jr.
- Assemblyman Thomas H. Paterniti
- Assemblyman John Paul Doyle

**ALSO PRESENT:**

- Norma Svedosh
- Office of Legislative Services
- Aide, Assembly Senior Citizens Committee

\* \* \* \* \*

Hearing Recorded and Transcribed by  
Office of Legislative Services  
Public Information Office  
Hearing Unit  
State House Annex  
CN 068  
Trenton, New Jersey 08625

**New Jersey State Library**

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**P U B L I C   H E A R I N G**

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JOHN E. ROONEY  
*Chairman*  
ROBERT W. SINGER  
*Vice-Chairman*  
DOLORES COOPER  
WALTER M.D. KERN, JR.  
JEFFREY W. MORAN  
JOHN PAUL DOYLE  
THOMAS PATERNITI

**New Jersey State Legislature**  
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September 4, 1986

MEMORANDUM

TO: Committee Members  
FROM: Assemblyman John E. Rooney  
SUBJECT: PUBLIC HEARING AND COMMITTEE MEETING  
September 15, 1986

Public Hearing

The Assembly Senior Citizens Committee will hold a public hearing on Monday, September 15, 1986 beginning at 10:00 A.M. in Room 341 of the State House Annex on the prevention and deterrence of crime and abuse against senior citizens.

Address any questions and requests to testify to Norma Svedosh (609-292-1646), State House Annex, Trenton, New Jersey 08625. Persons wishing to testify are asked to submit ten copies of their testimony on the day of the hearing. The chairman may find it necessary to limit the number of witnesses or the time available for each witness.

Committee Meeting

The committee will meet on Monday, September 15, 1986 immediately following the public hearing, if time permits.

The agenda will be as follows:

A-2745 Singer	Creates the "Casino Revenue Fund Advisory Commission"; appropriates \$50,000.
AJR-66 Dario	Directs the Division on Aging to develop a volunteer recruiting campaign.



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**ASSEMBLYMAN ROBERT W. SINGER (Vice Chairman):** Good morning, everyone. Thank you for being here with us today. As Vice Chairman of the Assembly Senior Citizens Committee, I would like to welcome all of you. This public hearing is on a very important topic. The protection of our senior citizens is of primary importance to this Committee.

The significance of this issue is obvious to all of us. The number of seniors affected is a large group. It is my opinion that one of the most meaningful steps that must be taken to prevent the mistreatment of older citizens is to educate the public as to the extent of this problem. We must also look into cases where people are being abused by the very people who are entrusted with their care, such as nursing homes, boarding homes, and hospitals. We must determine what type of investigations should be undertaken in these types of situations, and what prosecution and punishment should be undertaken. We must also provide support services for victims, and require mandatory reporting of elderly abuse. Clearly, there is a lot to do.

I thank all of you for being here, and I look forward to hearing your testimony this morning. We do not have a quorum here but, as you may all know -- or not know -- we do not need a quorum for a public hearing. Therefore, I am going to start the testimony right now. I'm sure our Chairman will be coming in directly.

Our first person to testify will be Sidney Willis, Assistant Commissioner, Department of Community Affairs, and Acting Chairman of the New Jersey Advisory Council on Elderly Abuse. We are going to ask people to limit their remarks to around five minutes so we can get everyone in today who wishes to be heard.

Good morning, Commissioner. How are you this morning?

**A S S T. C O M M. S I D N E Y L. W I L L I S:** Good morning. I am Sidney Willis. It was my privilege, last year

-- earlier this year -- to serve as Chairman of the Advisory Council on Elderly Abuse, a Council which was established by Executive Order of Governor Kean. I served representing Commissioner Leonard Coleman. Our report has been distributed to you, and we have additional copies of that. In addition, my testimony is being distributed, so it will not be necessary to go through all of that material. I would like to provide some comments, nonetheless.

I did want to take the opportunity both to congratulate this Committee for holding these hearings and -- as you say, Mr. Singer -- for bringing these problems to the public's attention and further educating the public as to the need for further remedial action.

I also think we should be grateful to the Advisory Council, which was broadly representative of the elderly community, the professionals in the field, the people in law enforcement, and the various departments of the State government which are involved in this problem.

The Council, at the conclusion of its deliberations -- as you will find in our report -- recommended enactment of a statute to implement a comprehensive program to prevent and treat elderly abuse. Only a comprehensive program, the Council felt, will be useful to the abused elderly and to their abusers who are, in our judgment, abuse victims as well.

The problem of elderly abuse is national in scope. Many states -- and now New Jersey with this Committee -- are giving it the serious attention it deserves. In some states, only piecemeal or easy remedies, however, are being proposed. It proved easy in a few states, for example, to promulgate that everyone must report instances of elderly abuse to the proper authorities. But, as we learned, without responsive services in place, mere reporting is meaningless. Without new governmental powers to intervene, even to protect the elderly from themselves, reports alone are useless.

Newspaper accounts on the release of the Council's report understandably focused on the pain and hopelessness felt by those senior citizens who have been abused. We learned in our own hearings -- as you undoubtedly will learn -- that these cruel incidents do, indeed, occur. We also learned of the thousands of care givers who try to provide support and services to their elderly relatives or friends under the most difficult circumstances, and without outside help. We learned that those few who may abuse elderly under their care are sometimes driven to such acts through despair, frustration, ignorance, or anger at the responsibilities thrust on them, for which they were not fully prepared.

We call upon the Committee, while calling attention to the problems of the abused, to also call attention to those thousands of citizens who assume their family responsibilities without such actions.

The report recommended a decentralized program. While many aspects of a comprehensive attack must be administered directly by the State government -- and, as we recommended, that is training, public information, the maintenance of a central registry of reported incidents -- the actual provision of most direct services should be within county governments. Our studies found -- and our surveys found -- a remarkable number and diversity of essential services being provided now by many progressive counties. We also discovered, of course, that there are shortfalls in many cases, and often a lack of central county planning to deal with this, but, nonetheless, there are rudiments in most counties.

Our recommendation is that the Division on Aging in the Department of Community Affairs -- and this is the recommendation and conclusion of the Council on Elderly Abuse -- set standards and certify programs which meet minimum standards in each county. We recommend that the area offices on aging, which exist in each county, be charged with preparing

elderly abuse plans, and with assuring that all necessary services are available through the various county public and private agencies, to avoid duplications and overlaps. But, there does have to be one central place in each county where assurances can be given that within the public and private providers within that county, there are ways to deal with the kinds of problems we have uncovered.

State financial support in partial support of the county programs is recommended by the Council as well. We believe these services are so essential that the Council is recommending that the Legislature make mandatory that counties provide at least the minimum core services identified in our report. No abused senior citizen should find himself or herself in any county without some capability to deal with a problem.

The report recommends a new set of powers to intervene in instances of elderly abuse. We recognize that this Committee is going to be concerned with the policy and constitutional issues that such intervention brings to the forefront. But, we felt it was essential that a responsible agency be able to gain access to an elderly individual in a private setting where reports of abuse existed. We felt it was essential that the public be capable of removing a clearly abused individual, or the abuser, from such a situation, if the evidence were present. We limited our definition to include only persons 60 years of age or older, and we required concurrence by a court before such powers could be utilized. That is a sensitive point, and we can discuss that with you, if you wish.

I don't want to dwell on the details of our report. It is all there, including the safeguards we recognize you are going to require -- and rightfully so -- and, also, the matter of training, so that people encountering these kinds of situations will know what the law is and will know how to

protect the civil rights of the elderly when they, in fact, are obliged to intervene.

We call for the use of existing agencies in county and State governments for these purposes, and I won't dwell on that. We call for a central registry. One of the problems we have here is that there is very little information that we, as a Council, were able to assemble with regard to the true extent of this problem in New Jersey. The figure 50,000, or 51,000, or 52,000 has been used. It is probably a valid figure. It is comparable to the ratios of elderly abuse that are found in other states. But the fact is, without some more systematic compilation of data, and some uniformity in the compilation of data, there is absolutely no way we can give you a definitive answer. We are recommending that you provide for the establishment of a central registry at the State level, so that, feeding from the counties, and feeding to the counties as well, we can, a decade from now, or five years from now, give you a much better reading on the extent of this problem and the extent to which it is improving as a result of the actions we recommended.

The sole issue on which the Council could not agree was mandatory reporting. I made a comment earlier about the need to be sure, if we are going to have that at all, that we have some services so you can respond to that. There are many different points of view, and the Council, I think, threshed them all out, and left for you a listing of the pros and cons of that issue. I will be glad to discuss that with you. Our own sense of it -- if there is interest on this Committee -- would be that perhaps we should concentrate first on being sure that there are services in every county, and then move in whatever direction you wish.

There are some down sides which the social service community will bring to your attention. I hope you will hear all sides of this before you resolve this. We recommend a \$2

million annual appropriation to provide for the State services we feel are necessary with regard to training through our Domestic Violence Training Program, public information -- particularly on where people should go in the event they are aware of, or are themselves victims of elderly abuse -- the statewide hot line, and functions of that sort. These will require funding but, more importantly, we also feel that in fairness to the counties, we need to be in a position to assist them to begin to upgrade the services they are rendering. We want to work with the counties to lift them up, and not simply mandate a program and then walk away from it as far as funding is concerned. We in Community Affairs are very sensitive to that question.

That really concludes my remarks, Mr. Chairman and Mr. Vice Chairman. I would be glad to answer any questions. The Department's staff person who has been working on this report is Sandra Bosna, who is seated with me. She is a member of the Division on Aging. On behalf of the Council on Elderly Abuse, which has worked on this problem now for more than a year in preparation for your consideration of it, we hope you will consider a comprehensive statute covering the points that were included in our report.

ASSEMBLYMAN JOHN E. ROONEY (Chairman): Thank you, Mr. Willis.

ASSEMBLYMAN SINGER: Mr. Chairman?

ASSEMBLYMAN ROONEY: Yes, Assemblyman Singer.

ASSEMBLYMAN SINGER: Just one quick comment. One of my major concerns is that the police departments -- the local police departments -- which deal with these situations on a daily basis, are made aware of the problems. For example, the Women's Commission in our county has offered that service to every police department to make them more sensitive to rape situations, and things of that sort.

I would hope, in that budget you are talking about, that the money would also be geared toward teaching local police to recognize and understand the sensitivity of such situations. That is so important, because these things happen at the local level. Too many times we think that by giving money to a county-- The sheriff's department is an arm of the county, it is true, but we deal with these problems on a local basis. There is a terrible need for the understanding of the local policeman on the beat -- the local policeman responding to a call of a family conflict -- to recognize these problems when he sees them, to be able to report them for what they are, and to be able to deal with the problem.

ASST. COMMISSIONER WILLIS: I appreciate that comment, Mr. Singer. The Department has already moved to incorporate within the Domestic Violence Training prospectus, a portion on recognizing and dealing with elderly abuse. While we don't have a great deal of information to give people in the local law enforcement communities about where to go for the support they are going to need, we will be collecting that as we go. Nonetheless, we have made a start in that direction. We agree completely that that has to be done.

ASSEMBLYMAN SINGER: Maybe you could tie some of that to your Safe and Clean money.

ASST. COMMISSIONER WILLIS: Possibly.

ASSEMBLYMAN SINGER: Remember, we get our funding from you for a lot of things that come down from the Department. I am only saying that because you have that type of thing, maybe we could do something along those lines. Your Safe and Clean money might provide a few hours of that type of training for the officers. Again, I can only tell you-- You are always so generous to us with checks for that. I would certainly think that we might have a little string attached which would be a positive thing.

ASSEMBLYMAN PATERNITI: Mr. Chairman?

ASSEMBLYMAN ROONEY: Yes, Mr. Paterniti.

ASSEMBLYMAN PATERNITI: First of all, I want to congratulate you for having this hearing on elderly abuse. I think it has been long in coming. Number two, Mr. Willis made certain statements that, you know, reports alone are useless, and another statement that we need new powers to deal with elderly abuse. I concur with everything he has said in his report. The only point is, I think we should incorporate a lot of deterrents. I should we should have stiffer penalties for the people who abuse the elderly. I happen to have some legislation in that respect, and I think some other legislators have done the same thing.

Another piece of legislation that should be incorporated would be, once we have found out about people who have been abused, we have to find ways of doing something about taking care of them. I worked on another bill which had to do with foster care of the elderly. Just as we have foster care for children, you would have a similar program for the elderly, because they have to have someplace to go and someone to take care of them.

There is another piece of legislation from the last session, which I am seriously thinking about reintroducing this session, which is a law in Washington State, and in some other states, which-- For example, if someone is assaulted -- whether it be someone elderly, or somebody even assaults his wife or his children -- if someone happens to call the police-- If the police come to the scene, they have the right to incarcerate the party for 24 hours without having anyone sign a complaint. The biggest fear of a wife, or a child, or another adult, is that if they sign a complaint, when the person gets out, they are going to get something even worse. But, if it is left up to the police officer, he would have this right. In these states, it has actually cut down the abuse up to as much as 80%, because there is the fear that if some

neighbor happens to call -- they don't even have to give their name -- and the police officer happens to come there, if he feels this party has abused someone-- If he thinks he is going to spend 24 hours in jail, he is going to think twice before he does it again.

So, I think some of these other areas should be incorporated in some form of legislation, along with the suggestions that Mr. Willis has made. As I said, this particular hearing was long in coming, and I again want to congratulate the Chairman for having it.

ASSEMBLYMAN ROONEY: I apologize for being late. Apparently the Turnpike Authority was not cooperating this morning. They decided during rush hour to do some construction, and the western spur, which just happened to be the one I got on before I heard the report, wound up being unbelievably backed up for about four or five miles. It took me about 40 minutes to go five miles. I could not believe it.

ASSEMBLYMAN SINGER: John, I just want to say one thing about something Mr. Willis mentioned which I think is important. I think with the legislation we are talking about, we are going to have to separately earmark special legislation against elderly abuse through the courts. What happens is, if you treat it the same way as a domestic violence case, I think that is doing a disservice to the person who is being abused, because it limits what the court can do. If they handle it as a regular domestic violence case, it's wrong. It has to be a separate entity; it has to be a separate crime, as such, and it has to be handled differently so that that person cannot come back into the home right away to continue the situation.

We find on the local level sometimes that what is happening is repetitive. We lock them up for 30 days, and they come back out and do the same thing again, because we can't put them away for that longer stretch for that type of abuse.

ASSEMBLYMAN PATERNITI: I have a bill -- A-1058 -- which would make a mandatory two-year sentence for the first assault, and a five-year mandatory sentence for the second assault.

ASSEMBLYMAN SINGER: Now it has to build the jails.

ASST. COMMISSIONER WILLIS: May I respond to some of the comments that have been made? The notion of recognizing the separate situation that exists with regard to the elderly, as opposed to other situations of abuse, has been one about which there has been some contention and public discussion. I believe that the elderly community -- if anyone could dare to speak for that community -- but, nonetheless, I believe from what we have learned, that the elderly community, by and large, do see their situation as being different. You are going to hear testimony on that, perhaps put more strongly than mine.

The Council suggested that there be new powers and a different treatment within the courts -- we know we are going to need safeguards here -- but that those special additional powers to intervene be limited to persons over 60. It has been very popular recently to say, "Well, let's do it for all adults," but when you open it to all adults, you then have to start being concerned even more about the civil rights and the ability of adults, generally, to make their own decisions. Sixty is an arbitrary cutoff, obviously. I am too close to 60 to suggest that that suddenly is going to be a great period of decay and decline. It is not, for most people. But, there has to be a line somewhere. There has to be a line somewhere, and that is why our report and our position is that the new powers which we are asking you for should be limited to persons 60 and over.

With regard to the stiffening of penalties, Doctor, I know you are aware that while this is a severe problem -- and it is a problem for the people who are in this situation who are really in desperate straits -- we have learned that we are

talking primarily about members of the household -- members of the family -- of the adult who is being abused. Now, I can't give you data on that, but, by and large, we strongly believe that we are talking about people upon whom the elderly are dependent for services and, also, with whom there are family and strong ties of relationships. So, we need outlets. We need ways to provide temporary, or even permanent alternate living arrangements for an elderly person. We need to be able to remove the abuser from the situation, for a period of time perhaps. We need to be able to deal with these in a manner which combines the best of the law enforcement view with the best that there may be in social service thinking as to how to treat the individual problem of that abused person and the people who are also in trouble, that is the abusers.

I can't get more specific than that, but I do hope you will all consider those issues as you consider the stronger aspects of penalties and punitive action with regard, even, to the abusers.

ASSEMBLYMAN DOYLE: If I may, Mr. Chairman.

ASSEMBLYMAN ROONEY: Yes, Mr. Doyle.

ASSEMBLYMAN DOYLE: Sid, that same problem you talked about, remembering that it is all within the family-- Making the penalties stricter, applied, I guess, to the area of mandatory reporting. I know the Council came down firmly on both sides. It is a very difficult issue, and we have, more recently, Prosecutor Stamler's letter. Is there anything since the report was issued several months ago that you would want to add to that critical section? I realize you have been in a spot because the Council couldn't come to a decision. I just wonder-- Well, since then, we have decided in favor against, but personally, since then, has there been any new facts or anything other than what we have in front of us that you might want us to consider on that critical issue?

ASST. COMMISSIONER WILLIS: Well, at the very least, I want to say that I very quickly deleted the word "criminal" with regard to the issue of criminal prosecution, because Prosecutor Stamler wrote to Senator Pallone, and publicly to your Committee as well -- and he was a very respected member of our Council -- calling attention to the fact that should there be an action taken by the prosecutors in the county, that it would be as a disorderly person and, therefore, not strictly a criminal offense. Even the word prosecution may be a little heavy. The record has been, in cases of child abuse, that very little has been actually prosecuted there.

So, I stand corrected by Mr. Stamler, and I tried to adjust my comments to reflect his letter -- his very thoughtful letter.

As far as where we are now, I can only report that our own thinking is that whatever you do -- and I hope I am not putting this too strongly to you -- whatever you do, match it with services in place. Services in place means new authorities from the Legislature and money. Without those, I really wish you would not move on the mandatory reporting item.

ASSEMBLYMAN DOYLE: What would you do with those new moneys?

ASST. COMMISSIONER WILLIS: Well, I think that is pretty well described in the report. It is a modest program. We have defined the absolute core minimum service that must be in every county. We would use most of that money to be sure that the counties -- where they are now can be lifted to that minimum core, with some help from the State. Then, we do need the registry so we will know where we are the next time I have to testify before you and, also, to get the information out which you have already pointed out is necessary. And, we are going to have to train all of the people who come into contact with this, including the law enforcement officials and the local levels, and that costs money -- that's staff and money.

We ask for a modest amount, but we can't do it without some funding.

ASSEMBLYMAN ROONEY: Thank you, Mr. Willis. Are there any other questions from the Committee? (no response)

I see the ombudsman is here. Jack, you are not on the list to speak. Have you requested to speak?

J A C K R. D' A M B R O S I O (speaking from audience): No, I am really not prepared to speak today.

ASSEMBLYMAN ROONEY: Okay. Next on our witness list is Richard O'Grady, Division of Youth and Family Services, Department of Human Services.

R I C H A R D O' G R A D Y: I appreciate the opportunity to speak before the Committee.

Currently, my responsibilities include administering the Office of Adult and County Social Services. I was also the Chair of the Current Effort Subcommittee of the New Jersey Advisory Council on Elderly Abuse. I have with me today, Gerry Gioglio, who was a key research person in the State in first looking at some of the issues surrounding elderly abuse.

My comments this morning will be centered on the involvement of DYFS and the Department in the area of what we call "adult protective services." I think as I go along it may become self-evident why we call it adult protective services, as opposed to strictly elderly abuse.

The House Select Committee on Aging has held public hearings, published reports, and acted as advocate to bring attention to the problem of elderly abuse. In fact, in many respects, some of the activities surrounding the publicity on elderly abuse are reminiscent of the 1950s and early '60s on child abuse and neglect. The House Committee, in its 1981 report, surmised that 4% of the nation's elderly may be victims of some sort of abuse and neglect. That would mean about one in 25 older Americans are abused each year.

There are, of course, serious problems with these estimates because of different definitions used in different states, and because programs are not yet fully in place to provide hard data. In fact, some of the reviews of the Current Effort Subcommittee would indicate that between 1/2% and 1% of the elderly in New Jersey are abused. But, of course, that is without an elderly abuse legislative act and without mandatory reporting.

While the Division has had much experience in the area of child abuse and neglect, adoption, foster care, etc., we began to become involved in the late '70s and early '80s with adult protective services. Primarily that involvement came because of our oversight responsibility of the county boards of social services. Those county boards of social services are a primary link in providing services to about 87,000 SSI recipients -- Supplemental Security Income recipients in the State of New Jersey -- in addition to having responsibility for the Public Assistance Program. Also, the Rooming and Boarding House Act of 1979 focused greater attention by the boards of social services on the problem of abuse in some of the boarding home situations.

While much more research needs to be done, we do know that elderly abusers tend to be adult children. They can range in age from teens to old age, but are generally over the age of 40. We need to do much more in assessing any relationship between the way adult children treat their parents and the way they were treated as children.

In 1983, DYFS began to study the needs of vulnerable adults to determine who was at risk and what services could be provided to help them. In 1984, we funded -- at a minimal \$327,000 -- the State's first adult protective service programs in Bergen, Passaic, Ocean, and Cape May Counties. These programs, called the Adult Intervention Projects, were successful in helping those who would otherwise not have

received help, so much so that we have expanded programs this year to serve seven more counties, with \$484,000 in funding. The seven additional counties being: Sussex, Middlesex, Somerset, Hunterdon, Essex, Camden, and Atlantic.

Nine of the 11 programs are administered by county boards of social services, and two by offices on aging -- in Essex and Atlantic. However, even programs administered by offices on aging serve all adults at risk, not just the elderly. All of the programs investigate reports of abuse, neglect, and exploitation. Staff provide case management services, home care, emergency housing, clothing, food and shelter, legal services, transportation, and respite care.

Although age is not an indicator of a need for protective services, the increased dependence that sometimes accompanies advanced age may make this population more vulnerable. However, our experience in these programs has shown that a significant number of adults under 60 are being exploited, abused, and neglected.

A 1984 research study of the first four pilot programs showed that 38% of the clients in these programs were under the age of 60. Also, findings from the same study indicated that clients under and over the age of 60 use the same services and were subject to the same types of abuse.

In two of the most frequently used services -- housing placement and transportation -- utilization by elderly and non-elderly was fairly consistent. In addition, findings on types of abuse by age category showed only small variations between the elderly and non-elderly clients.

Some of the other research findings: A little over half of the clients live alone. As the majority of protective service work involves neglect and self-neglect, rather than physical abuse, strong supportive home care and respite services are essential if clients are to be kept out of institutions. Counties varied greatly in the type of client

served. For example, in Cape May, 39% of the clients had been deinstitutionalized, while in Passaic 23% of the clients needed nursing home placement. These variations indicate that any adult protective program will initially focus on service gaps or priorities in a given county.

The length of client involvement with the agency only averaged 3.2 months. This is significant, in that short-term intervention and service provision appear to be successful in reducing and/or eliminating the immediate risk faced by clients.

There were very low placement rates. Five percent of the clients were placed in psychiatric institutions, and 11% were placed in nursing home care.

The two most expensive services were, as expected, emergency placement and homemaker service. The average cost per client served was \$1855.

Most states have enacted elderly or adult protective service legislation, and I know from Sid's testimony that in New Jersey we are now considering the recommendations of the New Jersey Advisory Council on Elderly Abuse.

It is clear to those of us working to provide services that the need is great and resources are often limited. Many critical preventive services to adults, for example, legal and homemaker services, often serve to lessen the vulnerability of individuals to neglect and exploitation. Services can also reduce the stresses that may be placed on a daughter or son caring for an older person. Every effort should be made to reinforce a commitment to serve clients in the least restrictive way, and in providing support to family stability.

I have brought along copies of our research project for the Committee, should they wish to review it in more depth. At this point, I would certainly like to entertain any questions or comments.

I would like to point out that the county boards of social services spend approximately, currently, for general

services -- transportation, homemaker services -- \$17 to \$18 million. That is a combination of Federal funding and local county funding. So, there are significant services going to the adult population currently, not in a formal protective network, absent legislation, etc., but at least in the way of supportive services.

ASSEMBLYMAN ROONEY: Thank you. Are there any questions from the Committee? (no response) Okay, thank you very much.

MR. O'GRADY: Okay, you're very welcome.

ASSEMBLYMAN ROONEY: Next, is Rickey Greene--

ASSEMBLYWOMAN COOPER: Mr. Rooney, I have a question.

ASSEMBLYMAN ROONEY: Okay. Mrs. Cooper.

ASSEMBLYWOMAN COOPER: This testimony that you just gave-- Was that a result of public testimony? How did you get these people out to find out what goes on, other than things in nursing homes, which are reported? How did you find out all these little things?

MR. O'GRADY: Okay. At this point, maybe I ought to ask Gerry to comment on the research study and its findings, and how this was approached.

ASSEMBLYWOMAN COOPER: I mean, do you have whistle blowers?

G E R A L D R. G I O G L I O: There were actually two projects that were conducted over the last several years. The first one was the first attempt -- and, so far, the only attempt -- in the nation to get a representative sample of older persons living in a community; that is, the noninstitutionalized, non-boarding home population. We had a scientific sample of these people picked, and we went out in the communities and interviewed approximately 400 older persons about the phenomenon of elderly abuse, about their knowledge of it, and about their personal experience with it.

Following that, the pilot projects that Mr. O'Grady mentioned were implemented in the four counties in our State. We asked the sponsors of these programs to fill out a couple of forms for us for each of the clients they served, kind of a pre-service form, and then a monthly form that gave us some information on their progress, and then a termination form so that we could see what kinds of services these people got, the demographic information about them, and the end-all of the case.

ASSEMBLYMAN SINGER: Just one comment, Mr. Chairman. I just have one basic concern. You know, we have so many different groups that go into and service the senior committees throughout the counties. I believe we have to coordinate into one area. We heard from the Department of Community Affairs before. They have groups that deal with this subject. We are hearing from Human Services, and I know we are going to hear from the State Department of Health. I serve as the Secretary/Treasurer of a County Board of Health. We run the largest visiting nurse service and visiting homemaker service in the State. We are into every home on a continual basis also.

I think we are going to have to make -- somewhere down the line -- a decision about who is going to have the overall responsibility for all of this, so that everybody can filter through that. Otherwise, we are going to have separate divisions in every department handling the same thing. I think we are going to have to look at that down the road as to who is going to be responsible for it overall.

MR. O'GRADY: That is certainly a key issue; otherwise, we do get into a real danger of duplication of services, with everybody stepping on everybody else's toes. One of the approaches we have taken is to try to look at the counties as separate entities, in the sense of allowing each county to determine who will be the provider of the services.

ASSEMBLYMAN SINGER: An excellent idea.

ASSEMBLYMAN DOYLE: Does that mean different counties can pick different lead agencies--

MR. O'GRADY: Yes.

ASSEMBLYMAN DOYLE: --at the State level?

MR. O'GRADY: No. There has to be a decision at some point around a lead State agency, but in terms of-- That is primarily for oversight purposes, regulation, policy, etc. But at least from the perspective of who provides the services -- which agency should do it -- I believe the county is in the best position to decide who in that particular county should do it.

ASSEMBLYMAN SINGER: Or do you think they would go through the Human Services advisory councils?

MR. O'GRADY: That should be an important element in the consideration of who it is, yes.

ASSEMBLYMAN ROONEY: Thank you very much, Mr. O'Grady.

ASSEMBLYWOMAN COOPER: Where does the Ombudsman fit in?

MR. O'GRADY: The Ombudsman, at least at this particular point in time, -- poor Jack -- deals with the institutionalized elderly. Our role primarily deals with the community activities of the elderly abused.

MR. GIOGLIO: I want to make two quick comments based on some of the things I have been hearing. I hope you find them helpful.

One is, don't get caught up in the hype when you deal with the issue of elderly abuse. Think about those two words, because it makes you think about battering, and it is not that simple. It is a very complex kind of a problem. Think that same way when you think about legislation, especially when you are dealing with law enforcement. That is only one minor piece, as the Commissioner before me mentioned. It is a social service phenomenon. Consider, for example, that the State Police are now collecting information on the elderly as a result of the Governor's commission meetings, and are breaking it out for us. We are finding that 3% of those people who come under the Domestic Violence Act are older persons. A large

number, I believe 30% -- that's off the top of my head -- are issues of spousal abuse among the elderly. So, you rush right in with law enforcement type of solutions, and you kind of scratch your head and say, "Wait a minute, maybe it doesn't fit."

New research that has just come out is showing that the dependent old seem to be neglected. That is a care giver kind of an issue; that is a medical issue; that is a social service issue. The healthier elderly people seem to be, the least physically abused. Okay? Of all the phenomena of abuse material -- psychological, and so on and so forth -- the healthy are the fewest number who are physically abused -- battered. They tend to be the healthier persons, we're finding lately, and dependency seems to be the abuser dependent on the victim. In other words, what we are talking about is, perhaps, people with mental problems, perhaps some of the deinstitutionalized who have been returned home, perhaps folks with substance abuse kinds of problems, who are dependent on the old. That raises a whole other bunch of issues.

So, in sum, think of all that together when you are doing your work. Also, think in terms of mandatory reporting, that perhaps that is a little off base, and what we should be mandating is appropriate and effective services.

ASSEMBLYMAN ROONEY: Thank you. Are there any other questions from the Committee? (no response)

I know that Chief Delaney is not here, but is there someone here for Chief Delaney -- for the New Jersey Association of Chiefs of Police? Anyone representing that group? (no response)

May we have Naomi Epps, Chairperson, New Jersey Chapter of the National Caucus and Center for Black Aging? Oh, I'm sorry, I missed Rickey Greene for some reason. We'll call Rickey Greene next. Is Rickey Greene here? (affirmative response) Okay, you're next.

N A O M I E P P S: Good morning, Assemblymen. I am very happy to have the opportunity to express, as a senior, the problems we face as seniors. I am looking at our dais, and we don't have a senior there.

ASSEMBLYMAN KERN: There are some seniors.

ASSEMBLYWOMAN COOPER: I've worn well, and Clairol.

MS. EPPS: Oh, you are. Bless your heart, darling.

ASSEMBLYMAN MORAN: Dolores, you told us you're 21.

ASSEMBLYMAN ROONEY: Hopefully, we'll all get there.

MS. EPPS: Yes.

ASSEMBLYMAN ROONEY: The alternative isn't that good.

MS. EPPS: That's right, and many things need to be changed before you get there. The thing we must do is change them right now, so that when you get there, everything will be in place.

There are two things I want to mention, but I'll save those two things that are very important and close to my heart until the latter part of my speech.

You also have the news from our national setup, which deals with the same problem we are talking about now. The only thing about it is that we are talking about it on the national level. But, the things that face the nation with us are the same things we are facing here in New Jersey.

I am sometimes called a "professional senior advocate volunteer," because for the past 13 years I have volunteered my services on county, city, State, national, and international levels. I say international level because a year or so ago I was in Geneva, Switzerland, discussing the same things that we are discussing here this morning. Many of the foreign countries were represented. They have problems with seniors as well. We discussed how best to deal with the problems of our seniors.

We are in need of services for prevention and, also, services to alleviate abused elderly, and by so doing, we will

address the views of the elderly. Laws, rules, and regulations are of little use if crimes are not reported. How can you deal with problems if they are not reported? Laws, rules, and regulations are of no use if there are no punishments or such when someone is abused, or rewards when rules are carried out or followed.

Crime is our number one concern. We live under a form of house arrest, because we are afraid to venture out into crime-infested neighborhoods. Freedom from fear and victimization is one of our elderly concerns. The vast majority of crimes go unreported, either because the victim fears reprisal, believes that the police will be indifferent, or even if caught, the victim believes the criminal will be back on the streets to do more personal damage.

Despite the reports of some experts, painting glowing pictures of the elderly status in the United States, you would either have to be clinically dull, totally insensitive, or lack common sense to conclude that seniors are living well. I'm sure you know many who are not. Millions of seniors or elderly are suffering from an income crisis, and that is a threat. We are engulfed in the roots caused by the problems affecting the aging: health, housing, nutrition, and many, many other needs for services.

Elderly persons are considered poor if they have fallen below \$4997 annually. Some of you make that much, maybe, in a couple of months. This amounts to about \$96 per week. Now the government is cutting the food stamps \$10 in many, many areas. You can spend \$10 a week buying milk if you have children.

These are problems that face our seniors. By some of us working out of offices instead of directly with the community, we hear about them. We can't visualize the problems we have. Six thousand, two hundred, and eighty-two dollars is usually for the very poor, and many times they can't find

housing. And, whether we know it or not, we are treated as less than human beings. These houses -- developments -- that we usually get -- the seniors -- are in poor neighborhoods, if we can get them, and many times the rent there, even though subsidized, is much more than we can afford. This sometimes causes our seniors -- the grandparents of this nation -- to shack. It's all right if I want to shack, but I wouldn't expect you and the government to force me to shack because I can't afford a decent apartment, because I don't have the finances to pay for a decent apartment in a decent neighborhood.

This, to me, is a form of elderly abuse. We are mindful of the civil rights of the elderly, and are sensitive to the need for procedures, safeguards, and legislative intervention, but we must also be very conscious that many people are so dependent on other people, that they can't afford to live decent lives.

Setting standards and providing technical assistance to the counties in setting up services would alleviate many of the problems, rather than waiting for problems to happen, or presenting them after the fact. We wish our concerns for the problems of elderly abuse to be translated into a State appropriation of \$2 million to the New Jersey Division on Aging, inasmuch as all seniors in any neighborhood know where the office on aging is. It's a place where I go, and the other seniors are aware of going. I know the people there, and I am aware that they are set up to take care of the seniors.

When the Governor approached the group in reference to doing the study that we have done on the seniors, they came to the offices on aging -- the area agencies on aging of the State Department to do the survey. They have done that survey. The minute the money is recommended, it seems that everybody in the State wants a piece of the pie. Everybody in the State can't have a piece of the pie. If the Division on Aging was intelligent enough to do the survey, with the help and

cooperation of all of the other agencies, why would we have so much controversy over who is to be head of this area, and we are speaking in terms of senior citizens? It appears to some of us who are seniors that if the money goes elsewhere, a new agency will have to be set up. I know we need training; I know we need other staff, other than what we have in the offices -- in the area offices. But, inasmuch as the area offices on aging -- at the State level and at the county level -- are already set up to serve the seniors, it would be, to me, and to many people, the area which should be in charge of delivering the services and taking care of the seniors.

The sooner the recommendations of the Council become legislated, the better off the seniors of New Jersey will be. Their life spans will be just a little bit longer, because of a little more love, peace, joy, and happiness in the lives of those we love, people who have made the greatest sacrifice for those of us who are here and now. Should you keep on living, too, you will become an elderly person. There is only one way to avoid it, and none of us want to die young.

The communities need to become aware of the needs of the abused elderly. Community forums could be made possible. Mass media should also be used to alert families and communities to the services available. What we are doing here today is long overdue. We can no longer sit; hear no evil, see no evil, and do no evil.

There are two cases, one in my county, and I would like to remind this group of a case that one of the prosecutors brought into our meeting. He stated that the woman was about 85 or over. Her son was about 60 -- or maybe 55. She was in the hospital. They had to take her to the hospital because of an emergency need. She had been sick for a little while. The son came into the hospital about nine or ten o'clock, after visiting hours, wanting to see his mother. Of course, the nurse in charge decided to, well, give him a few minutes,

because it was after hours. She allowed this man to go in to see his mother. She gave him a limited number of minutes to visit with his mother.

While the nurse went back to her station to check on what was happening, this man had sexual intercourse with his mother, in the hospital. If it had not been in the hospital, who would have been there to tell the tale.

See, these are the things that we, as seniors, hear about. I have a letter here from one of our council persons -- one of our freeholders. There was a case in one of the hospitals that happened in January. I am on the Council in my county. When it came to us, we demanded that something be done. The guy who is our ombudsman stated that he had done all he could do. He hadn't done a damned thing.

I have the letter here today that the freeholder had to write to the guy who is in charge, that a rape had taken place in January and, as of September 8, not one damned thing had been done about it.

These things, I'm telling you, are close to my heart. These things should not be where seniors are concerned. If it were your mother, or a relative or an acquaintance of yours, how would you feel? If you were a senior, how would you feel? I feel as though if I were helpless, the same thing could happen to me. These things we need to think about.

I want to thank you for allowing me this opportunity to express my feelings on this subject.

ASSEMBLYMAN ROONEY: Thank you, Ms. Epps. This is exactly why we are here today -- to do something about the problems that exist. If there are situations such as you brought up, we want to get the legislation out there to make sure that it doesn't happen again. This is the purpose of our Committee, and we thank you very much for coming in for us.

ASSEMBLYWOMAN COOPER: Ms. Epps, what county are you from?

MS. EPPS: Passaic County.

ASSEMBLYMAN ROONEY: Rickey Greene?

R I C K E Y G R E E N E: Good morning. I am the Coordinator for the Gerontology Program for the State Department of Health. I will summarize our written testimony, which has previously been submitted to the Committee.

The Department of Health strongly endorses the recommendations developed by the New Jersey Advisory Council on Elderly Abuse. We, as a society, have a responsibility to protect our most vulnerable members. We believe that adequate safeguards exist to protect the institutionalized elderly. It is now time to extend this protection to those elderly living in the community. When the recommendations contained within this report are implemented, we will have made a significant advance towards attaining this goal.

I was the Department's representative on the Advisory Council. In our meetings, we focused on many issues pertaining to abuse and neglect of the noninstitutionalized elderly. Many others today will be testifying regarding incidents of abuse and neglect committed by children and spouses of the elderly. I will focus on a significant unregulated group of care givers who provide care in the home for a fee.

One of my responsibilities is to operate the certification program for homemaker/home health aides. Over the past few years, we have suspected that abuse and neglect occur among the elderly at home. On occasion, an elderly person would contact our office to complain of inadequate care, physical attacks, extortion, or intimidation that they had been subjected to by personnel from temporary employment agencies or homemaker/home health aides who were not affiliated with any agency.

The existence of a problem regarding health care can result in conflict for the elderly consumer. Families and individuals are often very dependent on the continued provision

of health services in their home, and many are therefore reluctant to, or fear reporting inadequacies or limitations in the care they receive. At the present time, there is no focal point for dealing with consumer problems involving those personnel providing care in the home for a fee.

In my written testimony, I have illustrated some of the abuse and neglect complaints that our Department has received. These examples illustrate a significant gap in the Department of Health's regulatory authority over agencies providing health care in the home. At the present time, only home health agencies are licensed by the Department of Health. The 64 home health agencies, which are also certified for Medicare reimbursement, receive annual licensure inspections based upon stringent quality of care standards.

In addition to the above licensed agencies, there are two other provider groups providing health care in the home. There are 21 voluntary homemaker/home health aide agencies which meet standards set by their association -- The Home Care Council. The second provider group includes approximately 200 temporary help service agencies or private employment agencies that provide homemakers, home health aides, or private duty nurses. All of these agencies must be registered as staffing agencies with the Department of Law and Public Safety. Regulations pertaining to these agencies essentially govern business practices and do not address quality of care standards. At the present time, the Department of Health has no authority to impose penalties over these agencies for inappropriate patient care.

We believe that all persons functioning in the capacity as a homemaker/home health aide must complete an approved training course and be certified by the Department. Furthermore, all aides must work under the supervision of a professional. Finally, patient care standards must be developed for all agencies providing health care services in the home.

We have been working closely with the Departments of Law and Public Safety, Human Services, and Community Affairs to develop an appropriate solution to this problem. We envision that the response will entail a restructuring of our present regulatory approach with a minimal set of licensing criteria. These criteria would incorporate quality of care standards and require all aides to be certified and working under appropriate supervision.

That concludes my testimony. I will be glad to answer any questions you may have.

ASSEMBLYMAN ROONEY: We have your report also, and there are some horror stories which I have looked over. We would like to work closely with you to regulate, especially, this homemaker/home health aide issue more closely.

Have you found in the licensing procedure-- Have you done any background checks to see if these people have any criminal records, similar to what we have seen in some of the day care problems?

MR. GREENE: That is one of the problems that has been brought to our attention. In one case -- in fact, in your county -- there was an aide who is currently under investigation for elderly abuse. This individual had four different Social Security numbers, four aliases, and had a previous criminal record in New York State. At the present time, we have no regulatory authority over these agencies, so we cannot mandate that. Part of the employment history should include criminal checks.

ASSEMBLYMAN ROONEY: I think that would be a very good first step with anyone dealing, basically, with the frail, elderly population -- pretty much the population that is really the dependent type population -- anyone who could be subject to abuse, such as the very young or the very old. Our first action should be to ask for a mandatory criminal check of anyone's background who wishes to become a home health aide.

That would be my first recommendation as a bill to come to this Committee.

ASSEMBLYMAN SINGER: You know, John, on that, especially with low unemployment in many areas of the State, they are finding it very, very difficult to staff the home health services. That is the time that these things-- Sometimes they let their guard down a little bit because of such staffing problems. I think that kind of clearance is a good idea.

MR. GREENE: We currently have an interdepartmental task force looking into that with the Department of Human Services.

ASSEMBLYMAN ROONEY: I have written a note that this should be one of the first bills for this Committee to consider. It will probably have to go to the Regulated Professions Committee, but that would be an excellent idea. Criminal checks must be mandatory.

MR. GREENE: Again, we are not seeking to license the home health aides. We are seeking to license the agencies providing the services.

ASSEMBLYMAN ROONEY: We will work with you on both aspects of that -- the background checks and, also, the licensing of the agencies. I have gone through some of your report, and I find it abhorrent that we could have incidents of this type happening in the State of New Jersey, or anywhere in the United States. This report will be available to all of the Committee members.

Thank you very much, Rickey.

MR. GREENE: Thank you.

ASSEMBLYMAN ROONEY: May we have Lois Hull, Essex County Division on Aging?

One thing I am going to ask. We do have two bills to be considered, so I am going to try to-- I don't want to eliminate any testimony, because this is a very important

issue. But I just want to ask you to be as concise and as quick as possible. Thank you.

L O I S H U L L: It's my pleasure to be brief here at the microphone.

I would like to thank the Committee for having me here this morning. My remarks are made not only as the Director of the Essex County Division on Aging, but also on behalf of the 21 county offices on aging in the State of New Jersey.

I would just deviate from my prepared statement because I feel that family members and adult children take a hard rap at these kinds of hearings. I know the Committee knows this, but I think for the record it is important to say that between 80% and 85% of the care provided to frail, elderly people in this country is provided by family members, primarily adult children. Obviously, without that network of informal support, no level of government in this country could meet the needs of that population.

Indeed, I am equally horrified by the kinds of things that Ms. Epps talked about, and Rickey has in his report, and the kinds of things that Dick and Gerry were including in their reports, but I do think we need to keep in mind that it is aberrant behavior, and is not typical of Americans or New Jerseyans.

I also want to say that in spite of the bleak picture painted by Ms. Epps, it is clearly better to be old in 1986, than it was 20, 30, or 40 years ago. I think most of us working with older people are pleased with the progress, and very proud of the lead New Jersey has taken in many areas. I am not at all unhappy that we are one of the states that doesn't have protective services legislation yet. A lot of those 37 states have adopted legislation in what I consider to be a rather haphazard way. Some of that legislation is really not helping, but is causing some additional dysfunction.

So, it is my hope that New Jersey will learn from the mistakes of other states, that, for example, we won't end up having protective services legislation that does, indeed, violate people's rights. Older people are adults. Most of them are competent people who are used to making their own choices for a much longer time than most of us here are. I would not like to see them robbed of any of those rights just because of advanced years.

Some of the programs have also served as a conduit to institutionalization. I don't think, given our history of nursing homes, we would be interested in doing that sort of thing either.

There are three things, I think, of paramount importance in your deliberations. One -- and you have heard some of this, this morning -- is making a very clear distinction between overt acts of abuse and those kinds of situations resulting from neglect, self-neglect, and care giver stress. They are very different societal problems, and we need to respond to them very, very differently.

One cannot say too often that older people are not children. Any legislation which attempts to treat them as abused children is, in my view, doomed to fail. Also -- as Commissioner Willis is -- I am getting close to 60, and I am concerned about the rights that I have enjoyed all these years not being taken away from me in my older years.

I think, again, that Mr. Willis mentioned the importance of funding these services. Several other speakers talked about the importance of having services in place. We are one of the new counties that is working under the Adult Intervention Program that the Department of Human Services is funding and, indeed, we have what I consider to be-- It sounds like a lot of money, but it is not going to go very far. It is over \$100,000, but it won't even allow us to serve more than 25 people. The services required by this population need to be

provided immediately. You don't have time to negotiate. You may not have time to look for the best price in an emergency. I think if counties are going to be responsible in serving this population, the State must give us sufficient resources to be responsible. Obviously, the State must hold us accountable, and make sure we do an efficient job, as well as an effective job.

These are costly services, and that brings me, in closing, to my real serious problem with the issue of mandatory reporting. One of the reasons it has been adopted in so many states is that it is a way for policymakers to appear to do something, and it doesn't cost very much money. As a civil libertarian, I have some violent reactions to it. But, beyond that, if I were required to report, and in my best professional judgment believed that no service would be forthcoming to the family I reported, I would have no choice but to break the law, and that disturbs me very much.

So, I beg you to make sure that New Jersey has the kinds of services that we need to have in place before you even talk about mandating reporting.

Thank you.

ASSEMBLYMAN DOYLE: So it's not that mandatory reporting is wrong, but just that it would be putting the cart before the horse.

MS. HULL: Well, I do think mandatory reporting is wrong, but even beyond that, the idea that you could put in place before the services, makes it really unacceptable. We can argue about the civil liberties issue later.

Thank you.

ASSEMBLYMAN ROONEY: Thank you very much.

ASSEMBLYMAN SINGER: John, just one quick comment. I know we are pressed for time. If you mandate reporting and you do not give the backup for it, you're right, we're kidding ourselves. If that person has to go back into that abuse

situation immediately, no one in his or her right mind would want to report it, because they would have to go back and live with the family. If there was no requirement that that case study be done immediately -- that that family must be on, like, a probation type of situation -- we would be doing a disservice to many of those people, because they would have to go back and live there under those circumstances. So, I think your point is well taken.

ASSEMBLYMAN ROONEY: Thank you. Now we will have Fran Benson, Union County Division on Aging.

F R A N B E N S O N: Good morning. I am Fran Benson. I am the Elderly Abuse and Neglect Coordinator for Union County. However, today I am speaking on behalf of Philip Pearlman, Executive Director. Mr. Pearlman could not be here, but he did want to submit testimony. His message is:

"Mr. Chairman, members of the Assembly Senior Citizens Committee, good morning and thank you for allowing me to appear before you today.

"I am Philip Pearlman, Executive Director of the Union County Division on Aging. I am also the current President of the New Jersey Association of Area Agencies on Aging. I am speaking to you today primarily as the Executive Director, but I also support the testimony of Lois Hull" -- which you just heard.

"The issue of elderly abuse is not new. However, the focus of attention on this problem is new in this State since the creation of the Advisory Council on Elderly Abuse.

"I support the findings in that report, and would take this moment to publicly thank the many dedicated persons who served on the Advisory Council. It is an important first step.

"As you are aware, and the report has underscored, we need a system and a systematic approach toward addressing the problem of elderly abuse. I believe the system should include an educational effort to raise the awareness and sensitivity to

the problem within the general population, as well as service providers, who are in a position to recognize and identify specific cases of abuse. We also need a means of gathering data. In order to understand and address the problem, we need specific data to reflect the New Jersey experience. The third ingredient in this statewide system is a State agency and local agencies to accept the responsibility for planning, developing, and implementing the system to address elderly abuse.

"The report recommends the Division on Aging within the Department of Community Affairs to be the central State agency, and in each county, the office on aging be the local agency. I support this recommendation because I believe the network of these agencies is best suited to plan, implement, and administer programs designed to serve the elderly residents of our State.

"The Union County Division on Aging has already initiated a countywide effort to address this problem. We have an ad hoc task force which has been meeting for over a year. During that time, we have developed an inventory of services, some working definitions of various forms of abuse and, most importantly, we have been allowed to hire a planner/coordinator, whose primary focus is elderly abuse. We are now in a position to move forward and need one very important thing. We need legislation such as the Advisory Council's report recommends, which will protect and prevent abuse and neglect of the elderly. The legislation is the next step in addressing the problem, and will provide the basic tools we need in order to develop a comprehensive, consistent, and coordinated system. The report outlines the components of such a system, and that is why I give it my unqualified support.

"The New Jersey Legislature has a well-documented record of addressing many of the needs of our elderly residents. I firmly believe you will extend that record by addressing the problem of elderly abuse. My concern and

respectful suggestion to you is the need for legislation as quickly as possible. I recognize the legislative need for moving with deliberate speed, but I encourage you to increase the tempo of that deliberate speed and give us the basic tools we need: a law, regulations, and the funds to develop and initiate a statewide system which can address the problem of elderly abuse.

"Thank you for your kind attention and continued support of our efforts to improve the quality of life for the elderly residents of our State."

ASSEMBLYMAN ROONEY: Thank you very much. We appreciate that.

Is there anyone else who hasn't been heard? (no response) I have completed the witness list we had, so at this time I would like to close the public hearing.

However, before I close the hearing, I would like to explain basically what this Committee was looking at. I should have made this as an opening statement but, unfortunately, I wasn't here. Again, I apologize to the public.

On August 18, we were supposed to be in Lakewood for a meeting, but we were interrupted by the hurricane that was scheduled that never did quite come. Rather than leave people in question, we cancelled that, that morning.

This is a very important issue -- elderly abuse -- and we rescheduled the August meeting for today. We wanted to do it as quickly as possible. We were unable to do it in Lakewood, because that would have required us to have another session, and it would have been very difficult to get all of the people down there. So, I apologize to the people of Lakewood. I am apologizing to you, Mr. Singer, for not having the reconvened session in Lakewood.

But, as you have heard today, we do have problems. There is no question about it. As many as 4% of the State's elderly population are victims of abuse, neglect, or crime. That means about 52,000. We have heard a number from 50,000 to

52,000. One senior citizen would be too many, but 52,000 is absolutely outrageous. Throughout our country's history, it can be seen as a clear social policy to protect senior citizens. This was made evident in 1935 by the introduction of the Social Security Act. Among other things, this was the beginning of adult protective services.

Additionally, the United States Department of Social and Rehabilitative Services funded demonstration grants in the '60s and '70s to initiate the National Protective Services Project. In 1974, Title XX of the Social Security Act mandated and funded protective services for all adults 18 or older, without regard for income. It is fitting that we continue this policy -- this clear social policy -- and we are here to investigate what can be done.

The Governor's Council on Elderly Abuse released a report on elderly neglect and abuse, and this Committee is looking forward to the results on that. We will be studying it, and we will be working to develop legislation to bring about the measures that will address the problem.

On behalf of the Committee members and myself, I thank you all for testifying. I appreciate your very well-thought-out and very well put testimony today. I think we have a lot of material that we can sink our teeth into to develop some good legislation in the coming days of this Committee.

**(HEARING CONCLUDED)**

**APPENDIX**



REMARKS OF SIDNEY L. WILLIS  
ASSISTANT COMMISSIONER  
DEPARTMENT OF COMMUNITY AFFAIRS  
BEFORE THE ASSEMBLY COMMITTEE ON AGING  
AUGUST 18, 1986

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During the proceedings of the New Jersey Advisory Council on Elderly Abuse this year, it was my privilege to act as Chairperson, representing Commissioner Leonard S. Coleman, Jr. As such, I supervised preparation of the report of May 15, and chaired the discussions which led to its recommendations.

May I say at the outset that Advisory Council members worked hard and long to develop their proposals. These are well-considered and balanced. They are an expression of the deep concern of professionals in the field of aging, organizations of senior persons, lawyers and other members of the law enforcement community in New Jersey, and numerous State officials. These recommendations deserve your sympathetic attention. The Advisory Council urges enactment of a statute to implement a comprehensive program to prevent and treat elderly abuse as recommended in their report.

My purpose this morning is to highlight a few aspects of the report. My summary is not a substitute for the report which I hope you will read in its entirety. Nor is it my intent to pick and choose among several more popular concepts in the Council's report. Rather, it is to endorse the recommendations in their entirety. Only a comprehensive program will be useful to the abused elderly, and to their abusers who are victims as well.

New legislative policy will not be adequate without programs, without new powers at the county and State levels, or without funding. Conversely, newly funded programs will similarly fall short without a clear statement, enacted into law, of a formal State policy regarding elderly abuse.

As the Council's report makes clear, a series of actions are sought by the Legislature, by several departments, by county and local governments, by the Courts, and by professionals and citizens who witness elderly abuse. All have their responsibilities and obligations if this problem is to be meaningfully addressed.

The problem of elderly abuse is national in scope. Many states, now including New Jersey, are giving it the serious attention it deserves. In some states, only piecemeal or easy remedies are being proposed. It proved easy in a few states, for example, to promulgate that everyone must report instances of elderly abuse to the proper authorities. But, as we learned, without responsive services in place, mere reporting is meaningless. And, without new governmental powers to intervene -- even to protect the elderly from themselves -- reports alone are cynically useless.

In New Jersey, consistent with the comprehensiveness we seek, the Council on Elderly Abuse also recognizes the concomitant severe problems of abusers themselves and the attention and support they need.

Newspaper accounts on the release of the Council's report understandably focused on the pain and hopelessness felt by those senior citizens who have been abused. We learned these cruel incidents do occur. But, we also learned of the thousands of caregivers who try to provide support and services to their elderly relatives or friends under the most difficult circumstances and without outside help. And, we learned that those few who may abuse elderly under their care are often driven to such acts through despair, frustration, ignorance, or anger at the responsibilities thrust on them for which they were not fully prepared. So, we needed to include within our proposals such help and assistance as abusers and potential abusers may need as well. If implemented, the report's recommendations would do that.

The report recommends a decentralized program. While many aspects of a comprehensive attack on elderly abuse must be administered directly by the State government -- for examples, training, public information, and the maintenance of a central registry of reported incidents -- the actual provision of most direct services would be within county governments. Our studies found a remarkable number and diversity of essential services being provided now by many progressive counties, but we also discovered that there was little uniformity to these and no central county planning to assure known instances of elderly abuse were being systematically dealt with.

Thus, our recommendation is that the Division on Aging, in the Department of Community Affairs, set standards and certify programs which meet minimum standards in each county. And, we recommend that the Area Agencies on Aging, which exist in each county, be charged with preparing elderly abuse plans and with assuring that all necessary services are available through the various county public and private agencies.

State financial aid in partial support of county programs is recommended. But, we believe these services are so essential that the Council is recommending the Legislature make mandatory that counties provide at least the minimum core services identified in our report. No abused senior citizen should find themselves in any county without some capability to deal with their problem.

The report calls on the Legislature to specify a series of "core services" and a series of "secondary services." The core services were found by the Council to be essential to assure that a basic response system will be in place. The Commissioner of Community Affairs, through the Division on Aging, would be charged with defining that system in rules and regulations, as well as of certifying that at least the core services are in place in each county. These, together with support which would be made available statewide will assure all elderly persons they need not endure alone the types of abuses we have identified.

The report recommends a new set of powers to intervene in instances of elderly abuse. We recognize the deep policy and constitutional concerns the Legislature may have with increased public intervention. But, we felt it was essential that a responsible agency be able to gain access to an elderly individual where reports of abuse existed. And, we felt it was essential that the public be capable of removing a clearly abused individual or the abuser from such a situation if the evidence was present. But, we limited our definition to include only persons 60 years and over. And we required concurrence by a court before such powers could be utilized.

We are mindful of the civil rights of the elderly and we are sensitive to the need for procedural safeguards clearly spelled out by the Legislature. But, the Council has recommended these limited, new forms of intervention because of the needs we have identified.

I won't dwell on the details contained in the report regarding proposed standard setting, service availability, certification, training, and public information activities the Council recommended be provided on a statewide basis by the Division on Aging. Needless to say, as direct help becomes available to the abused elderly, there will need to be intensive efforts to make that assistance known to the elderly, and to citizens who become aware of instances of elderly abuse.

Proposed safeguards of the civil rights of elderly persons will need to be made clear to both those working in programs and those who may find themselves involved with these type situations. And, professionals will need to be trained to deal with these situations. Training would be provided in the manner proven effective in the domestic violence programs of the Department of Community Affairs.

There will need to be intensive planning and coordination in each county if all of the existing and newly proposed services are to be brought to bear where needed. To the extent existing agencies and existing services can be effectively utilized to meet these problems, they should be. To do so will require further bringing together public with private agencies, social welfare personnel with law enforcement officers, state with county administrators, and a myriad of sources of funding, some newly proposed. To accomplish all this requires elderly abuse planning, fully integrated within existing planning efforts, particularly the Human Services Advisory Planning Councils becoming increasingly effective with support by the Department of Human Services. As recommended by our report, the Area Agencies on Aging will bring their extensive network, their expertise and the confidence of elderly persons that they enjoy all over the state to bear on this problem; working fully in conjunction with other social service coordinative mechanisms.

If the recommendations of the Council on Elderly Abuse are followed, a central registry of all reported elderly abuse cases will be maintained at the State level in a manner which will enable us to more fully monitor the extent of this problem. Recognizing the Legislature's concerns with the misuse of any such registry, the Council calls for safeguards, enacted in statute and implemented by rules and regulations of the Department of Community Affairs to assure the security of these files.

But, effective intervention action and the design of future necessary programs dealing with elderly abuse requires more complete data. As the senior population of the State explodes in number and as the very old continue to be the fastest growing segment of the State's population, this problem will become greater. The Council regrets it could not now provide the Legislature with more definitive data on its extent. But, without a central registry and systematic compilation of data, as well as recording of the actions taken by public agencies to deal with individual abuse situations, we will find ourselves a decade from now similarly unable to advise the Legislature on the specific extent of this problem. So the Council calls for a statewide central registry, but wisely leaves to each county, also under formal controls, the active maintenance of specific case files.

The sole issue in which the members of the Council could not come to consensus has to do with mandatory reporting. As I mentioned earlier, some states have required all citizens or all professionals, having evidence that an abuse situation may exist, be obliged under state law to report that situation to criminal authorities. Our report provides a great deal of information both for and against such provisions of state law in New Jersey. Assuming the Legislature would enact needed programs to provide services, the negative aspects of a mandatory reporting law without services to offer after a report is made, would be ameliorated. However, from the point of view of many of the professionals in the field of aging, it may be years before all services sought are actually in place. And a legal obligation to report may be counterproductive while a professional social worker is working with the family concerned. Indeed, both the abused and the abuser may fear seeking counseling if they will be immediately subject to the possibility of ~~investigation~~ investigation and prosecution of family members.

Thus, the Department's present position on mandatory reporting is that the case for or against mandatory reporting is not yet complete. The Legislature should hear both sides from experts who will be testifying before you.

Finally, the Council's report calls for a \$2 million annual appropriation, at least for the first several years. This size appropriation will provide the Department of Community Affairs with sufficient resources to initiate the central registry, the statewide hot line, and working with each county, to define the specific services they could render in their county. Training and public education would also be initiated with these funds.

A limited amount of state aid would be available to every county to assist in supplementing services which may be unavailable there, to initiate new programs, and to demonstrate various approaches to dealing with elderly abuse in each county. It would take a year or two to promulgate specific rules and regulations and to certify programs in each county.

At some future date, the Legislature may wish to reconsider support to be available to counties by way of financial assistance. At the end of the first two-year phase, the Department and the counties would have a more complete basis for knowing costs and for defining the extent of service problems and their remedies in each county. Also, needed adjustments to the definitions of core services could be made by the Division on Aging or the Legislature after experience is gained.

Thus, some uncertainty still remains as to the full cost and scope of a complete response to elderly abuse in New Jersey. But, we agree with the Council that a substantial beginning should be made and that a mandatory program at the county level should be accompanied by state financial assistance.

The Advisory Council on Elderly Abuse hopes the Legislature will shortly consider a comprehensive statute which incorporates all of their recommendations.

Thank you for the opportunity to address you.

0434/8/8/86

ASSEMBLY COMMITTEE ON AGING

SEPTEMBER 15, 1986

TESTIMONY

RICHARD O'GRADY, ADMINISTRATOR

OFFICE OF ADULT AND COUNTY SOCIAL SERVICES

DIVISION OF YOUTH AND FAMILY SERVICES

I WANT TO THANK THE COMMITTEE FOR THE OPPORTUNITY TO SPEAK TO YOU ON OUR EXPERIENCES IN PROVIDING PROTECTIVE SERVICES TO ADULTS. I WOULD ALSO LIKE TO INTRODUCE GERALD GIOGLIO FROM DYFS/ WHO IN CONJUNCTION WITH STAFF FROM THE DIVISION ON AGING/ CONDUCTED THE FIRST STUDY OF ELDER ABUSE IN NEW JERSEY.

THE DEPARTMENT OF HUMAN SERVICES/ THROUGH THE DIVISION OF YOUTH AND FAMILY SERVICES/ IS CURRENTLY RESPONSIBLE BY STATUTE FOR PROTECTION AND SERVICES TO VICTIMS OF CHILD ABUSE AND NEGLECT/ DOMESTIC VIOLENCE AS WELL AS VULNERABLE ADULT BOARDING HOME RESIDENTS.

THE DEPARTMENT ALSO SUPERVISES COUNTY WELFARE AGENCY SERVICE OPERATIONS/ WHICH ARE DESIGNATED TO PROVIDE SERVICES TO SSI RECIPIENTS/ WHO CONSTITUTE A LARGE PERCENTAGE OF CLIENTS NEEDING PROTECTION.

AS WE ARE ALL PAINFULLY AWARE/ THE LAST FEW YEARS HAVE SEEN DRAMATIC INCREASES IN CHILD ABUSE/ SPOUSE ABUSE AND OTHER FORMS OF DOMESTIC VIOLENCE INCLUDING THE MISTREATMENT OF VULNERABLE ADULTS/ AND THE ELDERLY.

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THE HOUSE SELECT COMMITTEE ON AGING HAS HELD PUBLIC HEARINGS/ PUBLISHED REPORTS AND ACTED AS ADVOCATE TO BRING ATTENTION TO THE PROBLEM OF ELDER ABUSE. THE COMMITTEE/ IN ITS 1981 REPORT/ SURMISES THAT 4% OF THE NATION'S ELDERLY MAY BE VICTIMS OF SOME SORT OF ABUSE OR NEGLECT. THIS MEANS THAT ABOUT ONE IN 25 OLDER AMERICANS ARE ABUSED EACH YEAR. THERE ARE OF COURSE SERIOUS PROBLEMS WITH THESE ESTIMATES BECAUSE OF DIFFERENT DEFINITIONS USED IN DIFFERENT STATES AND BECAUSE PROGRAMS ARE NOT YET FULLY IN PLACE TO PROVIDE HARD DATA. HOWEVER/ IT IS CLEAR THAT THE PROBLEM OF ELDER ABUSE IS NEITHER INSIGNIFICANT NOR ISOLATED. SOME OTHER FINDINGS OF THE HOUSE COMMITTEE WERE THAT ELDER ABUSE IS FAR LESS LIKELY TO BE REPORTED THAN CHILD ABUSE/ MOST INCIDENTS ARE RECURRING EVENTS THAN SINGLE EVENTS/ WOMEN ARE MORE LIKELY TO BE ABUSED THAN MEN/ AND VICTIMS ARE GENERALLY IN A POSITION OF RELYING ON OTHERS FOR CARE AND PROTECTION.

THE DEPARTMENT OF HUMAN SERVICES/ AND THE DIVISION OF YOUTH AND FAMILY SERVICES/ HAVE MADE CONSIDERABLE PROGRESS IN THE PAST FEW YEARS IN ADDRESSING THE NEEDS OF VULNERABLE ADULTS IN INCREASING OUR KNOWLEDGE OF THE PROBLEMS OF FAMILY VIOLENCE.

THE PROBLEM OF CHILD ABUSE HAS RECEIVED INCREASED ATTENTION WHICH HAS RESULTED IN THE DEVELOPMENT OF NEW RESOURCES: PARENTS ANONYMOUS/ PARENTING EDUCATION/ SEXUAL ABUSE PREVENTION AND TREATMENT PROGRAMS AND SPECIALIZED COUNSELING FOR ADULTS WHO WERE ABUSED AS CHILDREN. IN THE FIELD OF SERVICES FOR BATTERED WOMEN/ THERE ARE SHELTERS/ SAFE HOMES/ LEGAL ASSISTANCE AND COUNSELING

FOR VICTIMS AND BATTERERS AS RELATIVELY RECENT DEVELOPMENTS.

THERE IS AN INCREASING TENDENCY FOR SOCIAL POLICY TO ADDRESS THE THREE PROBLEMS OF CHILD ABUSE/ SPOUSE ABUSE AND ADULT ABUSE AS PART OF ONE ISSUE/ DOMESTIC VIOLENCE. ALTHOUGH ABUSE AND VIOLENCE IN A FAMILY SETTING IS A SIGNIFICANT ASPECT IN ADULT PROTECTIVE SERVICES/ IT IS IMPORTANT TO KEEP IN MIND THAT THE LARGEST POPULATION NEEDING SERVICES IS NOT BEING PHYSICALLY ABUSED/ BUT IS SELF NEGLECTING. MANY OF THESE SELF NEGLECTING ADULTS LIVE ALONE.

CHANGES IN OUR PATTERNS FOR FAMILY LIFE HAVE MEANT GREATER ISOLATION FOR MANY FAMILIES. THE PRESENCE OF AN EXTENDED FAMILY IN CLOSE PROXIMITY IN THE PAST MAY HAVE MADE IT MORE DIFFICULT FOR ONE PERSON TO TAKE ADVANTAGE OR ABUSE ANOTHER. THERE WERE ALSO MORE PEOPLE TO SHARE IN THE CARE OF DEPENDENT ADULTS.

ANY DISCUSSION OF ELDER ABUSE NEEDS TO BE DEFINED BROADLY. IT INVOLVES PHYSICAL ACTS OF VIOLENCE BUT TO A LESSER EXTENT THAN OTHER FORMS OF MISTREATMENT SUCH AS NEGLECT/ VERBAL AND EMOTIONAL ABUSE AND FINANCIAL EXPLOITATION. WE KNOW FROM EXPERIENCE AND RESEARCH THAT ABUSE OF ELDERLY MORE OFTEN INVOLVES A COMBINATION OF THESE FORMS.

WHILE MORE RESEARCH NEEDS TO BE DONE ON INTRA-FAMILY DYNAMICS/ WE DO KNOW THAT ELDER ABUSERS TEND TO BE ADULT

CHILDREN. THEY CAN RANGE IN AGE FROM TEENS TO OLD AGE BUT ARE GENERALLY OVER AGE 40. BUT MUCH MORE NEEDS TO BE KNOWN/ FOR EXAMPLE/ FURTHER RESEARCH SHOULD ASSESS ANY RELATIONSHIP BETWEEN THE WAY ADULT CHILDREN TREAT THEIR PARENTS AND THE WAY THEY WERE TREATED AS CHILDREN.

IN 1983 DYFS BEGAN TO STUDY THE NEEDS OF VULNERABLE ADULTS TO DETERMINE WHO WAS AT RISK AND WHAT SERVICES COULD BE PROVIDED TO HELP THEM. IN 1984/ WE FUNDED/ AT \$327,000/ THE STATE'S FIRST ADULT PROTECTIVE SERVICES PROGRAMS IN BERGEN/ PASSAIC/ OCEAN AND CAPE MAY COUNTIES.

THESE PROGRAMS/ CALLED THE ADULT INTERVENTION PROJECT/ WERE SO SUCCESSFUL IN HELPING THOSE WHO WOULD OTHERWISE NOT HAVE RECEIVED HELP THAT WE EXPANDED PROGRAMS THIS YEAR TO SERVE SEVEN MORE COUNTIES/ WITH \$484,000 IN FUNDING. THE SEVEN ADDITIONAL COUNTIES ARE SUSSEX/ MIDDLESEX/ SOMERSET/ HUNTERDON/ ESSEX/ CAMDEN AND ATLANTIC.

NINE OF THE ELEVEN PROGRAMS ARE ADMINISTERED BY COUNTY BOARDS OF SOCIAL SERVICES/ TWO BY OFFICES ON AGING (ESSEX AND ATLANTIC). HOWEVER/ EVEN PROGRAMS ADMINISTERED BY OFFICES ON AGING SERVE ALL ADULTS AT RISK/ NOT JUST THE ELDERLY.

ALL OF THE PROGRAMS INVESTIGATE REPORTS OF ABUSE/ NEGLECT AND EXPLOITATION. STAFF PROVIDE CASE MANAGEMENT SERVICES/ HOME CARE/ EMERGENCY HOUSING/ CLOTHING/ FOOD AND SHELTER/ LEGAL SERVICES/ TRANSPORTATION AND RESPITE CARE.

ALTHOUGH AGE IS NOT AN INDICATOR OF A NEED FOR PROTECTIVE SERVICES/ THE INCREASED DEPENDENCE THAT SOMETIMES ACCOMPANIES ADVANCED AGE MAY MAKE THIS POPULATION MORE VULNERABLE. HOWEVER/ OUR EXPERIENCE IN THESE PROGRAMS HAS SHOWN THAT A SIGNIFICANT NUMBER OF ADULTS UNDER 60 ARE BEING EXPLOITED/ ABUSED AND NEGLECTED.

IN FACT/ A 1984 RESEARCH STUDY OF THE FIRST FOUR PILOT PROGRAMS SHOWED THAT 38% OF THE CLIENTS IN THESE PROGRAMS WERE UNDER THE AGE OF 60.

SECOND/ FINDINGS FROM THE STUDY SHOWED THAT CLIENTS UNDER AND OVER THE AGE OF 60 USED THE SAME SERVICES AND WERE SUBJECT TO THE SAME TYPES OF ABUSE.

FOR EXAMPLE/ IN TWO OF THE MOST FREQUENTLY USED SERVICES--HOUSING PLACEMENT AND TRANSPORTATION--UTILIZATION BY THE ELDERLY AND NON-ELDERLY WAS FAIRLY CONSISTENT.

IN ADDITION/ FINDINGS ON TYPES OF ABUSE BY AGE CATEGORY SHOWED ONLY SMALL VARIATIONS BETWEEN THE ELDERLY AND NON-ELDERLY CLIENTS.

OTHER RESEARCH FINDINGS:

- A LITTLE OVER HALF OF THE CLIENTS LIVE ALONE. AS THE MAJORITY OF PROTECTIVE SERVICES WORK INVOLVES NEGLECT AND SELF NEGLECT RATHER THAN PHYSICAL ABUSE/ STRONG SUPPORTIVE HOME CARE AND RESPITE SERVICES ARE ESSENTIAL IF CLIENTS ARE TO BE KEPT OUT OF INSTITUTIONS.

- COUNTIES VARIED IN THE TYPE OF CLIENT SERVED/ I.E./ IN CAPE MAY 39% OF CLIENTS WERE DEINSTITUTIONALIZED WHILE IN PASSAIC 23% OF THE CLIENTS NEEDED NURSING HOME PLACEMENTS. THESE VARIATIONS INDICATE THAT ANY ADULT PROTECTION PROGRAM WILL INITIALLY FOCUS ON SERVICE GAPS OR PRIORTIES IN A GIVEN COUNTY.

- THE LENGTH OF CLIENT INVOLVEMENT WITH THE AGENCY ONLY AVERAGES 3.2 MONTHS. THIS IS SIGNIFICANT IN THAT SHORT TERM INTERVENTION AND SERVICE PROVISION APPEAR TO BE SUCCESSFUL IN REDUCING/AND OR ELIMINATING THE IMMEDIATE RISK FACED BY CLIENT.

- THERE WAS A VERY LOW PLACEMENT RATE/ 5% OF CLIENTS IN PSYCHIATRIC INSTITUTIONS AND 11% FOR NURSING HOME CARE.

- THE TWO MOST EXPENSIVE SERVICES WERE AS EXPECTED EMERGENCY PLACEMENT AND HOMEMAKER SERVICE. THE AVERAGE COST PER CLIENT SERVED WAS \$1,855.00.

MOST STATES HAVE ENACTED ELDER OR ADULT PROTECTIVE SERVICE LEGISLATION AND I KNOW NEW JERSEY IS EXAMINING VARIOUS OPTIONS. THE GOVERNOR'S TASK FORCE ON ELDERLY ABUSE HAS SERVED AS A FOCAL POINT FOR MANY OF THE SENSITIVE ISSUES INVOLVED IN THE AREA OF PROTECTIVE SERVICES.

IT IS CLEAR TO THOSE OF US WORKING TO PROVIDE SERVICES THAT THE NEED IS GREAT AND THE RESOURCES OFTEN LIMITED. MANY CRITICAL PREVENTIVE SERVICE TO ADULTS I.E./ LEGAL AND HOMEMAKER SERVICES/ OFTEN SERVE TO LESSEN THE VULNERABILITY OF INDIVIDUALS TO NEGLECT AND EXPLOITATION. SERVICES CAN ALSO REDUCE THE STRESSES THAT MAY BE PLACED ON A DAUGHTER OR SON CARING FOR AN OLDER PERSON. EVERY EFFORT SHOULD BE MADE TO REINFORCE A COMMITMENT TO SERVE CLIENTS IN THE LEAST RESTRICTIVE WAY AND IN PROVIDING SUPPORT TO FAMILY STABILITY.

I HAVE BROUGHT ALONG COPIES OF THE RESEARCH PROJECT I DISCUSSED EARLIER FOR YOUR INFORMATION AND I WILL BE HAPPY TO SHARE ANY OTHER INFORMATION WE HAVE ON PROTECTIVE SERVICES.

I THANK YOU FOR YOUR INTEREST AND COMMITMENT IN EXAMINING THIS SERIOUS PROBLEM.

DEPARTMENT OF HEALTH TESTIMONY  
BEFORE THE ASSEMBLY SENIOR CITIZENS COMMITTEE  
ELDER ABUSE

Rickey Greene  
Coordinator, Gerontology Program  
August 18, 1986

THE DEPARTMENT OF HEALTH STRONGLY ENDORSES THE RECOMMENDATIONS DEVELOPED BY THE NEW JERSEY ADVISORY COUNCIL ON ELDERLY ABUSE. WE COMMEND THE ADVISORY COUNCIL ON THEIR THOROUGH ANALYSIS OF THE PROBLEM AND THEIR CONCISE AND INSIGHTFUL SOLUTIONS.

WE, AS A SOCIETY HAVE A RESPONSIBILITY TO PROTECT OUR MOST VULNERABLE MEMBERS. WE BELIEVE THAT ADEQUATE SAFEGUARDS EXIST TO PROTECT THE INSTITUTIONALIZED ELDERLY. IT IS NOW TIME TO EXTEND THIS PROTECTION TO THE ELDERLY LIVING IN THE COMMUNITY. WHEN THE RECOMMENDATIONS CONTAINED WITHIN THIS REPORT ARE IMPLEMENTED WE WILL HAVE MADE A SIGNIFICANT ADVANCE TOWARDS ATTAINING THIS GOAL.

I WAS THE DEPARTMENT'S REPRESENTATIVE ON THE ADVISORY COUNCIL. IN OUR MEETINGS, WE FOCUSED ON MANY ISSUES PERTAINING TO ABUSE AND NEGLECT OF THE NON-INSTITUTIONALIZED ELDERLY. I WILL LIMIT MY TESTIMONY TO ADDRESSING THREE OF THE RECOMMENDATIONS.

MANY OTHERS TODAY WILL BE TESTIFYING REGARDING INCIDENTS OF ABUSE AND NEGLECT COMMITTED BY CHILDREN AND SPOUSES OF THE ELDERLY. I WILL FOCUS ON A SIGNIFICANT UNREGULATED GROUP OF CAREGIVERS WHO PROVIDE CARE IN THE HOME FOR A FEE.

IN PARTICULAR WE WOULD LIKE TO EMPHASIZE THE FOLLOWING RECOMMENDATIONS:

- . WE AGREE THAT A NEED EXISTS TO IDENTIFY 1 COORDINATING AGENCY AT THE LOCAL LEVEL AND DESIGNATE THEM WITH THE RESPONSIBILITY FOR PREVENTION, IDENTIFICATION AND TREATMENT OF ELDERLY ABUSE, NEGLECT AND EXPLOITATION. WE CONCUR WITH THE ADVISORY COUNCIL'S RECOMMENDATION THAT THE COUNTY OFFICES ON AGING BE DESIGNATED AS THE LEAD AGENCY.
- . WE BELIEVE THAT THE RECOMMENDATIONS PERTAINING TO PUBLIC AWARENESS AND TRAINING ARE CRUCIAL TO ANY SUCCESSFUL CAMPAIGN AGAINST ABUSE AND NEGLECT. WE MUST EDUCATE THE PUBLIC AND PARTICULARLY FAMILY CAREGIVERS OF THE RESOURCES AVAILABLE IN THE COMMUNITY TO ASSIST CHILDREN AND SPOUSES OF THE ELDERLY IN THEIR ROLE AS CAREGIVER. TOO OFTEN, THOSE MOST IN NEED OF SERVICE, ARE UNAWARE OF COMMUNITY RESOURCES. LIKEWISE, WE SUPPORT THE NEED FOR THE DIVISION ON AGING TO DEVELOP AND IMPLEMENT A STANDARDIZED TRAINING PROGRAM FOR A WIDE VARIETY OF PROFESSIONALS.
- . IT IS ESSENTIAL THAT FUNDS BE APPROPRIATED TO IMPLEMENT THE RECOMMENDATIONS CONTAINED WITH THIS REPORT.

ONE OF MY RESPONSIBILITIES IS TO OPERATE THE CERTIFICATION PROGRAM FOR HOMEMAKER-HOME HEALTH AIDES. OVER THE PAST FEW YEARS WE HAVE SUSPECTED THAT ABUSE AND NEGLECT OCCURS AMONG THE ELDERLY AT HOME. ON OCCASION AN ELDERLY PERSON WOULD CONTACT OUR OFFICE TO COMPLAIN OF INADEQUATE CARE, PHYSICAL ATTACKS, EXTORTION, OR INTIMIDATION THAT THEY HAVE BEEN SUBJECTED TO BY PERSONNEL FROM TEMPORARY EMPLOYMENT AGENCIES OR HOMEMAKER-HOME HEALTH AIDES WHO ARE NOT AFFILIATED WITH ANY AGENCY.

THE EXISTENCE OF A PROBLEM REGARDING HEALTH CARE CAN RESULT IN CONFLICT FOR THE ELDERLY CONSUMER. FAMILIES AND INDIVIDUALS ARE OFTEN VERY DEPENDENT ON THE CONTINUED PROVISION OF HEALTH SERVICES IN THEIR HOME AND MANY ARE THEREFORE RELUCTANT TO OR FEAR REPORTING INADEQUACIES OR LIMITATIONS IN THE CARE RECEIVED. AT THE PRESENT TIME, THERE IS NO FOCAL POINT FOR DEALING WITH CONSUMER PROBLEMS INVOLVING THOSE PERSONNEL PROVIDING CARE IN THE HOME FOR A FEE.

THE FOLLOWING ILLUSTRATES SOME OF THE ABUSE AND NEGLECT COMPLAINTS THAT HAVE BEEN REPORTED TO OUR OFFICE:

MERCER COUNTY: CERTIFIED HOMEMAKER-HOME HEALTH AIDE NOT WORKING FOR AN AGENCY.

THE PATIENT WAS A 77 YEAR OLD WOMAN WITH A HISTORY OF DIABETES, CANCER AND ARTERIOSCLEROSIS, WHO WAS UNABLE TO COMMUNICATE INTELLIGENTLY. THE PATIENT'S DAUGHTER ASKED THE AIDE UPON EMPLOYMENT IF SHE WOULD AGREE TO GIVE HER MOTHER INSULIN INJECTIONS. THE AIDE AGREED AND ASSURED THE DAUGHTER THAT SHE HAD LEARNED TO ADMINISTER INJECTIONS. THE INSULIN TO BE INJECTED WAS NOT PRE-MEASURED OR PLACED IN SYRINGES. ONE MONTH LATER THE ELDERLY PATIENT WAS TREATED IN THE EMERGENCY ROOM OF HELENE FULD MEDICAL CENTER FOR DIABETIC SHOCK. THE AIDE WAS SELF-EMPLOYED AND DID NOT WORK UNDER THE SUPERVISION OF A REGISTERED NURSE.

HUDSON COUNTY: CERTIFIED HOME MAKER-HOME HEALTH AIDE NOT WORKING  
FOR AN AGENCY.

THE PATIENT WAS A 85-YEAR-OLD WOMAN WITH PARKINSON'S DISEASE,  
DIABETES AND HYPERTENSION, WHO WAS DISCOVERED BY A VISITING  
NURSE WITH A BLACK EYE, BRUISES AND OTHER MARKS ON HER BODY. SHE  
WAS FOUND IN A EXTREMELY NEGLECTFUL CONDITION, DESPITE A 24  
HOUR LIVE-IN HOME MAKER, WHO HAD BEEN HIRED PRIVATELY. THE WOMAN  
WAS TOTALLY BEDRIDDEN, CONFUSED AND LAYING IN A FETAL POSITION.

UPON HOSPITALIZATION, SHE WAS FOUND TO BE DEHYDRATED, ANEMIC, AND  
TO HAVE THREE DECUBITI (BED SORES) ONE OF WHICH WAS INFECTED.  
THE ELDERLY WOMAN WAS SUBSEQUENTLY TRANSFERRED TO A NURSING  
HOME AND THE HUDSON COUNTY PROSECUTOR'S OFFICE AWARDED GUARDIAN-  
SHIP.

ESSEX COUNTY: UNCERTIFIED HOME MAKER-HOME HEALTH AIDE FROM AN  
AGENCY NOT REGULATED BY THE DEPARTMENT OF HEALTH.

THE FOLLOWING IS FROM A COMPLAINT WE RECEIVED DATED JUNE 11, 1986:  
"MY MOTHER... HAS HAD TERMINAL BRAIN CANCER FOR THE PAST THREE  
YEARS. AFTER TWO OPERATIONS SHE IS NOW IN THE FINAL STAGES OF  
CANCER. SHE IS PARALYZED, UNABLE TO FUNCTION AT ALL ON HER OWN,  
CONFINED TO BED, AND SOMETIMES GETS HER FACTS MIXED UP WHEN  
COMMUNICATING WITH PEOPLE. HOWEVER, THERE ARE MANY DAYS WHEN  
SHE IS VERY BRIGHT, COMMUNICATIVE AND ABLE TO UNDERSTAND EXACTLY  
WHAT IS GOING ON AROUND HER.

THE ELDERLY WOMAN WANTED TO LIVE IN HER OWN HOME SO THE FAMILY HIRED A 24 HOUR LIVE-IN FROM A TEMPORARY EMPLOYMENT AGENCY. THE FAMILY RECEIVED COMPLAINTS FROM NEIGHBORS INDICATING THAT THE "AIDE'S" BOYFRIEND WAS STAYING OVERNIGHT CONTRARY TO THE FAMILY'S INSTRUCTIONS.

"WE ENTERED MY MOTHER'S HOUSE, WITH 3 POLICE OFFICERS AT APPROXIMATELY 3:00 A.M. AND WE FOUND (THE AIDE) AND HER BOYFRIEND, IN BED, ... ASLEEP TOGETHER. MY MOTHER'S BEDROOM DOOR HAD BEEN CLOSED SHUT, NO WINDOW OPEN. IT WAS ABOUT 100° IN THERE ACCORDING TO THE THERMOSTAT IN HER BEDROOM ... IF SHE HAD CALLED OUT DURING THE NIGHT FOR A SEIZURE (SHE DOES CALL FOR HELP), NO ONE COULD HAVE HEARD HER SINCE HER VOICE IS VERY WEAK ... THE HOUSE WAS NOT ONLY DIRTY IT WAS FILTHY, MY MOTHER WAS IN A DIRTY AND WET DIAPER."

"THE NEXT DAY, JUNE 10, 1986, WHEN WE HIRED AN R.N. AND WE HELPED CHANGE MY MOTHERS BED, WE FOUND THE SHEETS STAINED WITH URINE WHICH WE COULD NOT EVEN WASH OUT. IT OBVIOUSLY HADN'T BEEN CHANGED IN DAYS. WE FOUND CRUSTED DIRT UNDER HER BREASTS FROM LACK OF WASHING THERE, BED SORES WERE BEYOND HEALING FOR LACK OF USING AND PRESCRIBING THE RIGHT MEDICINE, AND HER GENERAL PHYSICAL CONDITION WAS TOTALLY IN NEGLECT."

"THIS IS A CASE OF GROSS NEGLIGENCE ON THE PART OF (THE AGENCY). I UNDERSTAND THE AIDES ARE TO BE CHECKED UPON ONCE IN A WHILE BUT NO ONE, AT ANY TIME EVER CAME TO MY MOTHER'S HOUSE TO CHECK ON (THE AIDE)."

BERGEN COUNTY: CERTIFIED HOMEMAKER-HOME HEALTH AIDE NOT WORKING  
FOR AN AGENCY

"MY MOTHER HAD A STROKE WHICH WEAKENED HER RIGHT LEG, ARM AND SPEECH. I WORK AND HAD TO FIND SOMEONE TO WATCH OVER HER. I HAPPENED TO SEE AN AD IN THE BERGEN NEWS. I WAS LUCKY TO HAVE MY OFFICE ON THE SECOND FLOOR OF WHERE I LIVE, I KEPT GOING UP AND DOWN STAIRS TO SEE WHAT WAS HAPPENING. THIS WOMAN BARELY FED MY MOTHER. SHE IMMEDIATELY PUT RESTRAINTS ON HER. AROUND HER WAIST AND THEN TIED HER HANDS TO THE BED. MY MOTHER CRIED, BUT SHE TOLD ME THAT SHE HAD TO DO THIS SO THAT MOM WOULD NOT FALL. IN THE MEANTIME, EVERYTIME I LOOKED OUT OF THE WINDOW I WOULD SEE THIS WOMAN OUT ON THE PORCH SMOKING. THIS WAS THE REAL REASON FOR TYING HER, SO THAT SHE COULD ATTEND TO HER NEEDS AND NOT MY MOTHER. I WOULD SEE HER BRING FOOD TO MOTHER AND TAKE IT AWAY AS IT WENT IN. SHE NEVER SAT WITH MOTHER, NOR DID SHE ATTEMPT TO GIVE HER ANYTHING (LIQUIDS ETC.) IN BETWEEN. I MADE MOTHER'S DINNER AND FED HER."

THESE EXAMPLES ILLUSTRATE A SIGNIFICANT GAP IN THE DEPARTMENT'S REGULATORY AUTHORITY OVER AGENCIES PROVIDING HEALTH CARE IN THE HOME. AT THE PRESENT TIME ONLY HOME HEALTH AGENCIES ARE LICENSED BY THE DEPARTMENT OF HEALTH. THE 64 HOME HEALTH AGENCIES, WHICH ARE CERTIFIED FOR MEDICARE REIMBURSEMENT, RECEIVE ANNUAL LICENSURE INSPECTIONS BASED UPON STRINGENT QUALITY OF CARE STANDARDS.

IN ADDITION TO THE ABOVE LICENSED AGENCIES, THERE ARE TWO OTHER PROVIDER GROUPS PROVIDING HEALTH CARE IN THE HOME. THERE ARE 21 VOLUNTARY HOMEMAKER AGENCIES WHICH MEET STANDARDS SET BY THEIR ASSOCIATION THE HOME CARE COUNCIL. THE SECOND PROVIDER GROUP INCLUDES APPROXIMATELY 200 TEMPORARY HELP SERVICE AGENCIES OR PRIVATE EMPLOYMENT AGENCIES THAT PROVIDE HOMEMAKERS, HOME HEALTH AIDES OR PRIVATE DUTY NURSES. ALL OF THESE AGENCIES MUST BE REGISTERED AS STAFFING AGENCIES WITH THE DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF CONSUMER AFFAIRS. REGULATIONS PERTAINING TO THESE AGENCIES ESSENTIALLY GOVERN BUSINESS PRACTICES AND DO NOT ADDRESS QUALITY OF CARE STANDARDS. AT THE PRESENT TIME THE DEPARTMENT OF HEALTH HAS NO AUTHORITY TO IMPOSE PENALTIES OVER THESE AGENCIES FOR INAPPROPRIATE PATIENT CARE.

WE BELIEVE THAT ALL PERSONS FUNCTIONING IN THE CAPACITY AS A HOMEMAKER-HOME HEALTH AIDE MUST COMPLETE AN APPROVED TRAINING COURSE AND BE CERTIFIED BY THE DEPARTMENT. FURTHERMORE ALL AIDES MUST WORK UNDER THE SUPERVISION OF A PROFESSIONAL. FINALLY, PATIENT CARE STANDARDS MUST BE DEVELOPED FOR ALL AGENCIES PROVIDING HEALTH CARE SERVICES IN THE HOME.

WE HAVE BEEN WORKING CLOSELY WITH THE DEPARTMENTS OF LAW AND PUBLIC SAFETY, HUMAN SERVICES AND COMMUNITY AFFAIRS (DIVISION ON AGING) TO DEVELOP AN APPROPRIATE SOLUTION. WE ENVISION THAT THE RESPONSE WILL ENTAIL A RESTRUCTURING OF OUR PRESENT REGULATORY APPROACH WITH A MINIMAL SET OF LICENSING CRITERIA. THESE CRITERIA WOULD INCORPORATE QUALITY OF CARE STANDARDS AND REQUIRE ALL AIDES TO BE CERTIFIED AND WORKING UNDER APPROPRIATE SUPERVISION.

FINALLY, I WOULD LIKE TO INFORM YOU OF THE DEPARTMENT'S ROLE IN INVESTIGATING ABUSE AND NEGLECT IN HEALTH CARE FACILITIES THAT WE LICENSE.

THE DEPARTMENT OF HEALTH'S DIVISION OF HEALTH FACILITIES EVALUATIONS AND LICENSING SERVES A DUAL ROLE IN RESPONDING TO ALLEGATIONS OF SUSPECTED ABUSE OR EXPLOITATION OF THE ELDERLY. ALLEGATIONS OF ABUSE GENERALLY COME TO THE DIVISION IN THE FORM OF A COMPLAINT RELATIVE TO THE SERVICES PROVIDED IN THE HEALTH CARE FACILITIES LICENSED BY THE DEPARTMENT.

IF AN ALLEGATION PERTAINS TO SUSPECTED ABUSE IN AN ACUTE CARE HOSPITAL, THE INVESTIGATION IS CONDUCTED BY DIVISION STAFF. EACH ALLEGATION AND THE RESULTS OF THE INVESTIGATION ARE REPORTED TO THE DIVISION OF CRIMINAL JUSTICE.

WHEN THE ALLEGATION INVOLVES AN INDIVIDUAL OVER AGE 60 RESIDING IN A LICENSED HEALTH CARE FACILITY OTHER THAN AN ACUTE CARE HOSPITAL, THE INFORMATION IS REFERRED IMMEDIATELY TO THE OFFICE OF THE OMBUDSMAN FOR THE INSTITUTIONALIZED ELDERLY.

THE OMBUDSMAN'S OFFICE, BY VIRTUE OF ITS ENABLING LEGISLATION INVESTIGATES ALL ALLEGATIONS OF SUSPECTED ABUSE OR EXPLOITATION OF THE ELDERLY RESIDING IN LICENSED HEALTH CARE FACILITIES.

IF THE RESULTING INVESTIGATION BY THE OFFICE OF THE OMBUDSMAN IDENTIFIES A VIOLATION FOR A LICENSING REGULATION, THIS INFORMATION IS

IN TURN, REFERRED TO THE DEPARTMENT OF HEALTH FOR ENFORCEMENT AND APPROPRIATE SANCTIONS AGAINST THE LICENSED HEALTH CARE FACILITY.

THE DEPARTMENT OF HEALTH AND THE OFFICE OF THE OMBUDSMAN WORK COOPERATIVELY TO PROTECT ELDERLY CITIZENS OF NEW JERSEY RESIDING IN LICENSED HEALTH CARE FACILITIES.

THE RECOMMENDATIONS OF THE ADVISORY COUNCIL EXTEND THE SAME PROTECTION TO THE ENTIRE ELDERLY POPULATION AND SIGNIFICANTLY STRENGTHEN THE PROCESS BY DESIGNATING A SINGLE AGENCY TO COORDINATE ALL EFFORTS.

TESTIMONY BY LOIS HULL, DIRECTOR, ESSEX COUNTY DIVISION  
ON AGING BEFORE THE ASSEMBLY SENIOR CITIZENS COMMITTEE

Chairman, Assemblyman John E. Rooney  
September 15, 1986

As a member of the New Jersey Advisory Council on Elder Abuse, I am pleased to speak with you as you begin your deliberations of the elder abuse issue and consideration of legislative responses to this difficult and complex problem.

My remarks are offered on behalf of the New Jersey Association of Area Agencies on Aging and the 21 County Offices on Aging serving New Jersey's older adult population.

Unlike almost all the many older adult issues confronted by policy-makers, elder abuse defies simple analytical attempts at clarification. First of all, the very fundamental question "what is it?" can plausibly be answered in a variety of ways; in addition we do not really know, empirically, either the extent or the causes of elder abuse. After more than a decade of national debate, we still do not really know the answers to these questions, and yet, a majority of the states have adopted legislation in an effort to deal more effectively with the problem and ultimately to help prevent it. Some of these resulting programs have proven to be effective in some ways, others actually run the risk of doing more harm than good to elderly clients and their families.

It is my deeply held hope that New Jersey will benefit from the experiences of other states, and that we may enact legislation that will reflect a number of vitally important concerns:

(1) Acts of commission must be seen as conceptually distinct from acts of omission. Violence must be viewed as different, in kind and cause, from neglect. The overwhelming majority of verified reports in those states with reporting laws, indicate that between 70 and 80% are neglect, and that the largest percentage of reports within the "neglect" category are "self-neglect."

(2) Older adults are NOT children. Strict reliance on existing child abuse legislation and programmatic strategies will, inevitably, result in inappropriate "solutions" when addressing the needs of mature adults.

(3) Legislative action in the area of protective services, legal intervention, central information registries and reporting mandates will not substitute for substantial increases in service dollars, intelligently allocated and administered.

Because it was the most contentious item on the Advisory Council's agenda, I would like to briefly discuss mandatory reporting. In view of the enactment of mandatory reporting statutes in 37 states, it is obviously a very compelling and attractive alternative. All this, in spite of the absence of any scientific data to document the usefulness of reporting laws in gathering information or the effectiveness of reporting laws in ensuring community services.

Clearly, the vulnerability of frail elderly people to a wide range of abuse and exploitation is great, and we wish to bring all our resources and knowledge to bear in aiding victims and families. "However, shameful and socially repulsive elder abuse

is, emotionally and politically based reactions to elder abuse will only further disenfranchise an already depressed elder population. Unfortunately, mandatory reporting legislation is a popular target for enactment because it appears to solve the problem of elder abuse while costing very little." (1)

Older people, and their caregiving families, need advocacy and supportive services, health, social financial, psychological, housing and medical. These services must be made readily available and easily accessible to those for whom they are appropriate and they must be administered in a way that precludes duplicative and intrusive procedure, which ensures coordination and guarantees confidentiality.

The aging network in New Jersey, all twenty one county offices on aging, the State Division on Aging, and the many local community based service providers operating under the Older Americans Act, stands ready to assist you in any way possible in your quest for the most effective and responsible response to this real and terrible problem.

Thank you.

(1) Faulkner, Lawrence F. Esq., Mandatory Reporting of Suspected Case of Elder Abuse: An Inappropriate, Ineffective and Ageist Response to the Abuse of Older Adults, Family Law Quarterly, Spring, 1982.

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**STATEMENT OF  
MELVILLE D. MILLER, JR., PRESIDENT  
LEGAL SERVICES OF NEW JERSEY  
TO  
NEW JERSEY ASSEMBLY COMMITTEE ON SENIOR CITIZENS**

September 12, 1986

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My name is Melville D. Miller, Jr., and I am President of Legal Services of New Jersey (LSNJ). I appear today at the request of the Chairman of this Committee to address the issue of elderly abuse. LSNJ is the statewide coordinating agency for all of the fourteen local Legal Services programs in the state. These programs provide free legal assistance in civil cases to New Jersey residents who are not able to afford lawyers on their own. In 1985 we provided assistance to over 35,000 people, more than 15% of our clients are senior citizens. Many of our cases involve domestic abuse situations. Most typically these are interspousal, but a significant number involve abuse of elderly or handicapped individuals, as well as children. We are called upon to represent the spectrum of participants, from the victims to abusers to other family members.

I have also served as a member of the New Jersey Advisory Council on Elderly Abuse, which prepared the report that you have under consideration. LSNJ is in agreement with and supportive of all of the major tenets of the report. Today I wish to highlight just a few of our most significant areas of interest.

Perhaps most important of all, we want to underline the service and support emphasis in the report. Contrary, perhaps, to popular belief, the most important problem with elderly abuse is not its identification and reporting. It is instead taking steps to ameliorate and even resolve the situation without simply uprooting the abused person from the home environment. As the report states and as you will undoubtedly hear over and over today, removal of the person from the home, frequently against their will notwithstanding the abuse, is the most expensive and least desirable solution to the problem. The report lists all of the critical or "core" services that the Council members deemed essential. It also

describes a range of other assistance. Unless substantial resources are made available to permit the provision of these key services, elderly abuse legislation will not achieve its goals. Families which have occurrences of abuse are invariably under considerable stress, whether it be economic, psychological, physical or some combination.

I would also note that the provision of legal assistance is identified in the report as one of the core services. This does not mean just assistance to the individual or family at the time of initial intervention by a government agency, such as guardianship or conservatorship. In the majority of cases it also means legal assistance to the individual or family on other legal matters that they face, ranging from housing to consumer transactions to entitlement for government benefits. Very frequently, the situations at issue in these other legal cases affect the individual or family ability to simply subsist, since they involve questions of shelter and a minimum income. Just as frequently, it is these very situations that create the stress which promotes a potential for interfamilial violence. At present Legal Services is able to represent only an estimated 15% of the people who are eligible for our help and have legal problems. The level of support for Legal Services must be substantially increased if we are to deal effectively with legal problems in families experiencing elderly abuse.

The report does not provide for mandatory reporting of abuse situations. A central reporting and registry mechanism is called for, along with standardized procedures to intervene and investigate alleged abuse. The mandatory reporting question was easily the most difficult and divisive issue that the Council considered. Legal Services strongly opposes mandatory reporting. Experience in other states analyzed to date

does not show that mandatory reporting makes a difference. The evidence from states which have closely looked at the question, such as Massachusetts, is that it is the publicity and enhanced public awareness which accompanied passage of elderly abuse protections that leads to increased reporting. Mandatory reporting is part of a much larger issue: the degree of government intrusion into people's private lives that is desirable and justifiable. Forced reporting by family members may run directly contrary to the goal of keeping families together, with necessary supporting services, wherever possible. Moreover, perhaps even more seriously, knowing that people they seek help from will have to file a report, family members are extremely likely to be discouraged in the first instance from reaching out for counseling or other help when they know there is a problem. In instances of abuse the most important single goal is to have the individuals involved reach out and obtain help. Mandatory reporting is very likely to discourage this help-seeking behavior.

It should be pointed out that the Council considered a wide range of alternatives on the reporting question, including limiting mandatory reporting to instances of physical abuse, as well as exempting family members and professionals from whom help is sought from the reporting duty. In the end, however, all of these alternatives seemed more clumsy and difficult than a straightforward voluntary system, accompanied by substantial publicity and encouragement of people to come forward and seek help. The Council re-committed the issue to the Division on Aging staff for much more comprehensive study of the experiences in other states, and is prepared to take up the issue again in the future in the light of this analysis.

Finally, in devising a comprehensive response to elderly abuse it is

essential to make the most effective use of governmental and private resources already in place. Agencies currently providing services should have their efforts supplemented, not supplanted. Services and programs under the jurisdiction of different departments of state government should be closely coordinated. The Council ultimately endorsed continuation of service provision through the current area office on aging network. It is contemplated that the help and expertise of protective service units currently located within county offices of social services would be utilized for initial intervention and investigation when abuse is reported, and that matters would be referred to offices on aging for analysis of what supporting services were necessary and how they would best be provided. Response can only be effective if these existing agencies are utilized and if their efforts are coordinated.



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TESTIMONY OF THE  
NEW JERSEY STATE CHAMBER OF COMMERCE  
BEFORE THE  
ASSEMBLY LABOR COMMITTEE  
ON THE SUBJECT OF  
PROPOSED WORKPLACE DRUG ABUSE TESTING ACT  
SEPTEMBER 4, 1986

Good afternoon Mr. Chairman and members of the Committee. My name is Patrick J. Witmer, Director of Legislative Affairs for the New Jersey State Chamber of Commerce.

The State Chamber appreciates the opportunity to work with this Committee toward the goal of developing a uniform standard for the use of drug abuse tests in New Jersey.

According to the National Institute of Drug Abuse, employees with drugs in their systems are one-third less productive and three times as likely to injure themselves or another person while on the job. The use and control of dangerous drugs, therefore, is a very serious concern for both employers and the State's workforce.

Preferably, the State Chamber would support amendments to A-2850 which would establish a study commission on drug testing to gather information on this issue and make its findings and legislative recommendations available one year following its formation. In the absence of such amendments, the State Chamber has the following concerns regarding the legislation:

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1. The State Chamber supports the amendments proposed by Assemblyman Foy, which establish an Advisory Committee on Employee Drug Testing, with the exception of the proposed amendment to page 2, section 8. In order to give sufficient time to the Department of Labor and the proposed Advisory Committee to review their findings and propose comprehensive regulations, the effective date of the act should be at least 90 days following the final report of the Advisory Committee to the Commissioner. Currently, the legislation authorizes the Commissioner of Labor to promulgate rules and regulations concerning the administration of drug tests 90 days following enactment of the law, a full year before the Commissioner receives the recommendations of the proposed Advisory Committee.

2. In the interest of public safety, the State Chamber believes certain employer/employee categories must be exempted from the proposed regulations, These should include public safety officers and all high-risk industries. The exempted areas should be determined by statute and by the Commissioner upon the recommendations of the Advisory Committee. The State Chamber is pleased that the proposed Committee amendments to A-2850 (Page 2, Section 5, after line 10) address the issue of exemptions. We believe that the specification of certain industries in the bill, such as utilities or air lines, may also be necessary.

3. The legislation proposes to regulate drug testing in the workplace. The longstanding procedures of many companies for pre-employment screening, however, should not be interfered with. Page 2, Section 4, line 3 should therefore be amended by deleting the words "or job applicant."

4. The goal of A-2850 is to establish a uniform standard for drug abuse tests in the workplace. Once established, the State Chamber believes that standard should not be altered by agreements between an employer and employees. In the interest of protecting worker safety, the law should be enforced uniformly in all areas of employment which are not specifically exempted by statute or regulation.

Section 7 should be deleted.

5. The proposed amendments to A-2850 (inserting a new Section 6) which mandate that employers provide counseling and treatment programs, and an unlimited leave of absence to employees who obtain treatment, as a condition for permitting drug testing, are for many New Jersey companies an extreme and unnecessary hardship. These requirements would be particularly burdensome for smaller companies. Many New Jersey firms already provide substance abuse guidance programs which meet, or exceed the requirements proposed in the amendments to A-2850. In the interest of other employers which cannot afford such programs, the State Chamber strongly recommends that these services remain voluntary.

Mr. Chairman, the ability of employers to effectively test workers for illicit drug use, and to take appropriate action based on the results of those tests, is of utmost importance to the State Chamber.

If employers could be granted immunity from lawsuits for accidents at the workplace and product liability cases, then the business community would be in a position to consider the elimination of employee drug testing. The responsibility of employers to provide a safe work place and produce safe products, however, requires in some instances the testing of employees and potential employees for drug abuse.

With the realization that employee drug testing is an unfortunate necessity for some companies, the State Chamber supports the goal of developing uniform standards for the administration of such tests. In all likelihood, these standards will include a requirement that confirmatory tests be administered to initial positive employees. Another requirement proposed by the amendments to A-2850, which directs employers using drug tests to make a written policy statement on drug

abuse testing available to all employees, is also a useful proposal.

The New Jersey State Chamber of Commerce will continue to inform the Committee of any additional concerns and recommendations our members have in regard to this important legislation.

Again, thank you for the opportunity to address the Committee, and I will be pleased to answer any questions you may have.





