

**The Growing Role of the Legal System in Combating Elder Abuse**

Lori A. Stiegel, J.D.  
American Bar Association  
Commission on Law and Aging  
Washington, DC

© Copyright American Bar Association  
2014

1

---

---

---

---

---

---

---

---

**Topics**

- Growing Role of Legal System
- Challenges & Opportunities
- Roles & Promising Practices
  - Criminal Justice System
  - Civil Legal System
  - Judicial System

© Copyright American Bar Association  
2014

2

---

---

---

---

---

---

---

---

**Legal System Components**

© Copyright American Bar Association  
2014

3

---

---

---

---

---

---

---

---

### Growing Role of Legal System

- Why
  - Demand from victims, families, & APS
  - USDOJ funding
- Impact
  - More media coverage
  - More prosecutions
  - More civil litigation
  - Better outcomes for victims???

© Copyright American Bar Association  
2014

4

---

---

---

---

---

---

---

---

### Challenges & Opportunities

- Resources
- Barriers
- Capacity assessment
- Forensics
- Legal remedies
- Research
- Underlying systemic issues

© Copyright American Bar Association  
2014

5

---

---

---

---

---

---

---

---

### Role of Criminal Justice System

- Enforce the law
- Protect the public
- Hold perpetrators accountable

© Copyright American Bar Association  
2014

6

---

---

---

---

---

---

---

---

### Role of Criminal Justice System

- Law Enforcement
- Prosecutors
  - Region/State/Federal
  - Attorneys General
  - Medicaid Fraud Control
- Corrections
- Community Corrections
  - Pretrial
  - Probation
  - Parole
- Victim Services
  - System-based
  - Community-based
- Victim Compensation

© Copyright American Bar Association 2014

7

---

---

---

---

---

---

---

---

### Role of Criminal Justice System

- Physical abuse = murder, manslaughter, assault, battery, etc.
- Sexual abuse = rape, sexual assault, etc.
- Financial exploitation = theft, fraud, etc.
- Neglect = murder, manslaughter, criminal neglect, ?
- Abandonment = ?
- Emotional abuse = ?

© Copyright American Bar Association 2014

8

---

---

---

---

---

---

---

---

### Promising Practices - Criminal

- Resources
  - Training & tools
- Services
  - Specializing
  - Participating in MDTs
- Remedies
  - Criminalizing activity
  - Tougher penalties

© Copyright American Bar Association 2014

9

---

---

---

---

---

---

---

---

**Role of Civil Legal System**

- Declare, enforce, or protect a right
- Redress a wrong
- Prevent a wrong

© Copyright American Bar Association  
2014

10

---

---

---

---

---

---

---

---

**Role of Civil Legal System**

<p><b>Public Service Lawyers</b></p> <ul style="list-style-type: none"> <li>• Legal Aid/Legal Services</li> <li>• Law School Clinics</li> <li>• Pro Bono</li> </ul>	<p><b>Private Lawyers</b></p> <ul style="list-style-type: none"> <li>• Elder Law</li> <li>• Probate and Trust</li> <li>• Family Law</li> <li>• General Practice</li> <li>• Others</li> </ul>
---	--

© Copyright American Bar Association  
2014

11

---

---

---

---

---

---

---

---

**Role of Civil Legal System**

- Detect
- Counsel
- Prepare or revoke documents
- Protect victim or assets
- Recover assets or obtain damages

© Copyright American Bar Association  
2014

12

---

---

---

---

---

---

---

---

### Promising Practices - Civil

- Resources
  - Training & tools
- Services
  - Public awareness
  - Representing
  - Participating in MDTs
- Remedies
  - Legislative advocacy

© Copyright American Bar Association 2014

---

---

---

---

---

---

---

---

### Role of Judicial System

- Interpret the law
- Apply the law

© Copyright American Bar Association 2014

---

---

---

---

---

---

---

---

### Role of Judicial System

<b>State</b>	<b>Federal</b>
<ul style="list-style-type: none"><li>• Trial Courts<ul style="list-style-type: none"><li>– Civil<ul style="list-style-type: none"><li>• Probate</li></ul></li><li>– Criminal</li><li>– Specialized<ul style="list-style-type: none"><li>• Elder</li><li>• Domestic Violence/Family</li><li>• Drug</li><li>• Housing</li></ul></li></ul></li><li>• Appellate Courts</li></ul>	<ul style="list-style-type: none"><li>• Trial Courts</li><li>• Appellate Courts</li></ul>

© Copyright American Bar Association 2014

---

---

---

---

---

---

---

---

### Role of Judicial System

- Hear cases involving elder abuse
- Provide community leadership

© Copyright American Bar Association  
2014

16

---

---

---

---

---

---

---

---

### Promising Practices - Judicial

- Resources
  - Guidelines/Standards
  - Training & tools
- Services & Remedies
  - Domestic/Family Violence Coordinating Councils
  - Court-Focused Elder Abuse Initiatives

© Copyright American Bar Association  
2014

17

---

---

---

---

---

---

---

---