

Submission No.....	132
Date Received.....	

From:

Sent: Monday, 18 June 2007 6:35 PM

To:

Subject: Re: Legal and Constitutional Affairs Committee Transcript (proof) 4 June 2007

No changes necessary.

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19 JUN 2007

See attached for mandatory reporting submission as requested by the Committee.

BY: LACA

**Also for the Record as requested:**

Twenty representatives from multiple disciplines went to Washington, DC in January 1986 to put together for the first time a template on elder abuse. I was one of the representatives for the field of law enforcement. Other fields included medical, social work, advocacy, legal, protective services, etc.

At the end of a four-day period, we emerged united as a group on all issues and presented the 50 states with the following template on elder abuse:

- Policies
- Procedures
- Training
- Criminal and Civil Statutes
- Mandatory Reporting
- Immunity under the law
- Definitions
- Uniform system of Reporting and Statistical Database

The above still constitutes the foundation of the elder abuse laws and have been added to and improved throughout the past 22 years. I was on the Elder Abuse National Board with the American Bar Association as well as the Crimes Against the Elderly Committee for several years with the International Chiefs of Police.

I still research globally on a daily basis as well as present and conduct training on elder abuse on a national and international basis.

Respectfully submitted,  
Lillian Jeter  
18 June 2007

Mandatory Reporting - Providing Protection for Vulnerable Older Australians  
Submitted by Lillian Jeter, Executive Director  
Elder Abuse Prevention Association

With approximately 165,000 vulnerable older Australians living in residential care facilities and thousands of other vulnerable older persons living in the community dependent on the help of family carers, **now is the time to take protective action and initiate mandatory reporting.**

We hear the stories of carers who witness mistreatment to residents at the hands of other staff members - rough handling while forcing residents into showers, leaving residents on the toilets unable to leave, leaving residents in their beds in urine-soaked sheets, psychologically demeaning debilitated residents with insults and shouts - leaving them without their dignity and respect.

**The implementation of mandatory reporting by all aged care professionals would prevent the subsequent assaults and victimisations in these types of cases.**

One questions why management do not report each and every case. Why do they overlook their duty of care as professionals even though their own policies and procedures state that a report should be made? The answers are simple but startling: 1. Duty of care is discretionary and not statutorily binding. 2. Many of our residential care facilities have a culture of fear and intimidation which permeates and silences not only the residents but also the staff members. For management to report this type of incident, it would only bring bad publicity, visible police presence, and questions about safety from the outside public - ingredients that no manager wishes upon their facility. Residential care facilities are big money makers with a continuous flow of consumers and negative publicity hurts business. What goes on behind closed doors must stay behind closed doors at all costs and is regulated and enforced by confidentiality contracts.

**The instituting of the protective mechanism of mandatory reporting would be mandated by statute and would also provide safeguards and immunity to the reporter, penalties for failure to report, and penalties for false and malicious reporting.**

**The United Nations Principles for Older Persons**, of which Australia is a signatory, states: *Older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives. Older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse.*

**The Charter of Resident's Rights and Responsibilities** which is displayed in all residential care facilities throughout Australia states that all residents shall *"be treated with dignity and respect and to live without exploitation, abuse, and neglect"* and *"be free from reprisal in any form for taking action to enforce his or her rights"*.

However, the reality is that some of our vulnerable seniors are being abused and mistreated at the hands of their abusive, greedy, and so-called "caring" family members, hidden behind the doors of the communities - horror stories involving the signing of powers of attorney, changing of wills, selling the family home, and prematurely forcing their dependent frail mother or father into a nursing home. What we as a community aren't privy to witness is the physical abuse, neglect, mistreatment, and psychological abuse that our vulnerable older neighbours are subjected to. These "caring" perpetrators in the family ostracise other family members, friends, church members, and intimidate services which come to the home. They continuously siphon the monies out of the vulnerable mother or father's bank account - monies which that vulnerable older person worked hard to obtain, sacrificing for their own children.

**Mandatory reporting mechanisms would mandate all aged care professionals and those who work with vulnerable older persons to report any suspicious, suspected, or actual incident of abuse, neglect, mistreatment, and/or exploitation to vulnerable older persons in the community and in residential care facilities.**

Over the past fifteen years and after no less than twenty separate Governmental reports on the issue of elder abuse, there are still those combined entities who oppose mandatory reporting. One such group is the Advisory Group for the Elder Abuse Prevention Project for the Victorian State Government which as recently as December 2005 stated that *"adults are capable of making informed decisions and choices regarding their own lives"* and *"whilst the primary aim of interventions must be the safety of the older person and the accountability of the perpetrator, the emphasis on preserving the autonomy of the older person must be central"*. No where is the word "vulnerable" mentioned nor "undue influence" by the perpetrator whose actions would be manipulative, controlling, coercive, and intimidating even to a dependent mother or father who still has capacity. No where is the fact mentioned that these acts of violence happen secretly behind closed doors, thus enabling the perpetrator to continue to harass, threaten, violate, and take away all of the remaining dignity and rights of the vulnerable

older person.

**In all cases of elder abuse, mistreatment, and exploitation, there is undue influence by the hands of the perpetrator whether it be in the community setting or in the residential setting at the hands of paid carers - thus the necessity to implement mandatory reporting.**

Having investigated cases of elder abuse for the past 22 years, first as a law enforcement commander and now as an advocate, I can unequivocally state that if these incidents of abuse go unreported, the frequency and severity of the abuse will only escalate. We as a society owe our vulnerable older Australians the best protections available to ensure that they have the utmost quality of life that they so deserve. These vulnerable older Australians not only built this country and raised their families here but they also fought in wars for their country and built the foundation of what Australia is today. Should we not show them the utmost respect and put in the best protective mechanisms to insure their dignity and quality of life?

**Mandatory reporting.** Only two words but put into law, a way to prove to those older Australians who are vulnerable that we honour and respect them.

The Elder Abuse Prevention Association can be contacted in the following way:

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