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ELDER JUSTICE

Stronger Federal Leadership Could Help Improve Response to Elder Abuse

Statement of Kay E. Brown, Director
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G A O

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Mr. Chairman and Members of the Committee:

I am pleased to have the opportunity to participate in today’s hearing on ending elder abuse, neglect, and exploitation. Each day, news reports cite instances of older adults across the U.S. being abused and denied needed care, often by those they depend on the most. Neglect and abuse often go hand in hand with financial exploitation, which can rob older adults of the life savings and property they count on to support them in old age. In addition to the physical, psychological, and economic harm elder abuse¹ inflicts on older adults, it can impose an economic burden on all Americans, increasing public expenditures on health care and the demand for a range of supportive services. A 2009 study estimated that 14.1 percent of non-institutionalized older adults nationwide had experienced some form of elder abuse in the past year.² In all likelihood, this underestimated the full extent of elder abuse, however, because older adults who are highly cognitively impaired may be underrepresented in this study.

States are primarily responsible for protecting older adults from abuse, neglect, and exploitation. In each state, an Adult Protective Services (APS) program aims to identify, investigate, resolve, and prevent such abuse.³ On the federal level, two statutes establish the government’s role and responsibility with regard to elder justice⁴ in general—the Older Americans Act of 1965⁵ (OAA) and the Elder Justice Act of 2009⁶ (EJA). The OAA requires the Administration on Aging (AoA) in the Department of Health and Human Services (HHS) to administer formula grants to state

¹In this document, we use “elder abuse” to refer to elder abuse, neglect, and exploitation.

²Ron Acierno et al, “National Elder Mistreatment Study,” a report funded by the National Institute of Justice, U.S. Department of Justice (2009). Although this study reports a combined one-year prevalence figure of 11.4 percent, the estimate we provide also takes into account the prevalence of financial exploitation found by this study.

³Most of these programs also respond to alleged abuse of at-risk adults in general, regardless of age.

⁴The Older Americans Act of 1965 defines elder justice as “efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation and to protect older individuals with diminished capacity while maximizing their autonomy; and the recognition of the [older] individual’s rights, including the right to be free of abuse, neglect, and exploitation.” 42 U.S.C. § 3002(17).

⁵Pub. L. No. 89-73, 79 Stat. 218 (codified as amended at 42 U.S.C. §§ 3001-3058ff).

⁶Pub. L. No. 111-148, tit. VI, subtit. H, 124 Stat. 119, 782-804 (2010) (to be codified at 42 U.S.C. §§ 1320b-25, 1395i-3a, and 1397j-1397m-5).

agencies on aging for elder abuse awareness and prevention activities and lays out AoA's responsibilities to provide leadership, disseminate information, collect data, and support research in the elder justice area.⁷ The EJA authorizes funding for state APS programs and calls for federal leadership and coordination in the elder justice area. It also requires HHS, in conjunction with the Department of Justice (Justice), to disseminate best practices, provide technical assistance, collect data, and support research aimed at responding to elder abuse. Justice is also authorized to award grants to provide assistance to victims of abuse in general under the Victims of Crime Act of 1984⁸ and of domestic violence under the Violence Against Women Act.⁹ These requirements are not specific to older adults, however.

My remarks today are based on our report for this Committee, entitled *Elder Justice: Stronger Federal Leadership Could Enhance National Response to Elder Abuse*,¹⁰ which is being issued today. They will cover (1) challenges state APS programs face in identifying, investigating, and resolving elder abuse cases, and (2) federal funding, activities, and leadership in the elder justice area. Information and findings in our report are based on the results of our 2010 survey of APS programs in all 50 states and the District of Columbia,¹¹ visits to APS programs in California, Florida, Georgia, Maryland, Texas, and Virginia, and interviews with APS officials in the District of Columbia, Maine, and Pennsylvania. We selected these states to achieve variation in their location, administrative structure, and the size of their older adult population. We also interviewed officials from HHS and Justice, reviewed relevant federal laws and regulations, and analyzed federal budgetary and other documents. Elder abuse experts and representatives from organizations with an interest in elder justice issues provided valuable information for this report.

We conducted our work from November 2009 through February 2011 in accordance with generally accepted government auditing standards. These

⁷42 U.S.C. §§ 3058-3058ff.

⁸42 U.S.C. § 10603(a)(2)(A).

⁹42 U.S.C. § 3796gg(b).

¹⁰GAO, *Elder Justice: Stronger Federal Leadership Could Enhance National Response to Elder Abuse*, [GAO-11-208](#) (Washington, D.C.: Mar. 2, 2011).

¹¹Survey questions and responses are presented in [GAO-11-129SP](#), an electronic supplement to the report.

standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In summary, we found that state APS programs are facing considerable challenges in responding to elder abuse. Many state APS programs are facing growing caseloads and increasingly complex cases; dwindling resources; insufficient information on effective practices and interventions; difficulties collecting and maintaining case-level data; and inadequate collaboration with law enforcement authorities, prosecutors, and financial institutions. While there have been a number of federal efforts to help states overcome these challenges, they have fallen short of supporting APS programs in two key areas—access to information on effective practices and interventions, and access to uniform nationwide APS data. In addition, while the OAA calls attention to the importance of federal leadership in the elder justice area, this leadership is lacking.

Nationwide, State APS Programs Face Significant Challenges

Among the challenges facing state APS programs, states reported that their caseloads are growing. A number of APS officials told us that elder abuse reports and investigations have been increasing steadily over the past few years and over half the states reported that the size of their elder abuse caseload posed a very great or great challenge for them. In addition, several APS officials indicated that their cases were becoming more complex, and therefore more difficult to investigate and resolve. Cases more frequently involved multiple types of elder abuse, including financial exploitation; victims with diminished cognition; and/or substance abuse on the part of the victim or perpetrator. Moreover, states reported that funding for APS programs was not keeping pace with increases in the number and complexity of cases. APS program officials told us that, as a result, it was difficult to ensure adequate staffing levels, staff training, and public awareness activities.

APS is primarily the responsibility of the states, and in 19 of the 28 states that could provide this information in our survey, more than half of the APS budget in fiscal year 2009 came from state and local revenues. In five

states the entire APS budget came from these sources.¹² While no federal funding is currently dedicated exclusively to APS programs, states have pulled from a number of federal sources for funding. Social Services Block Grants (SSBG)¹³ and Medicaid funds¹⁴ appear to be the largest sources of federal funding for APS programs. Based on responses to our survey, at least \$206.2 million in SSBG funds and \$42.3 million in Medicaid funds were allocated to APS programs in fiscal year 2009.¹⁵

In addition, the limited availability of information on how best to resolve elder abuse cases affects APS programs' ability to respond to these cases. Nearly all states reported that APS programs would benefit from additional guidance specifically tailored to APS needs. Officials from two states told us that without access to information on effective interventions, APS staff must repeatedly struggle to develop their own solutions for resolving complex elder abuse cases. In contrast, state Child Protective Services (CPS) programs have access to several federally-funded resource centers where they can find information on, for example, promising CPS practices and the legal and judicial aspects of the child welfare system.

Some states also have difficulty collecting, maintaining, and reporting their state-wide case-level data, which hampers their ability to track outcomes and assess the effectiveness of services provided. In addition, APS program officials and elder abuse experts told us that APS programs would benefit from a national system for collecting, maintaining, and disseminating uniform APS case-level data. Access to data from such a system would enable APS program officials to better understand

¹²Twenty-two states were unable to provide complete funding information for their APS programs by source in fiscal year 2009. Thus, we were unable to determine the proportion of non-federal versus federal funding for these states.

¹³HHS's Administration for Children and Families distributes SSBG funds by statute to states in proportion to each state's population to provide a wide range of social services best suited to the needs of its residents. 42 U.S.C. §§ 1397-1397f.

¹⁴Medicaid funds can be used by states for costs such as personal care services and targeted case management. In addition, the Social Security Act authorizes HHS to provide 'Medicaid waivers' to states that apply to allow them to spend federal Medicaid dollars on home- and community-based services not traditionally covered under the Medicaid program. 42 U.S.C. § 1396n(d).

¹⁵In fiscal year 2009, total SSBG funding to states was \$1.7 billion. This amount does not include specific earmarks or supplemental grants, such as for disasters. In fiscal year 2009, total Medicaid funding was \$215.6 billion.

programmatic trends, such as the characteristics of populations in the state that are most vulnerable to abuse and changes in caseload composition. Administrative data can also provide information on the outcomes of interventions, which is an important first step in determining their effectiveness. Currently, it would be difficult to compile such data across states because the types of case-level data APS programs collect, and the reliability of these data, vary by state.

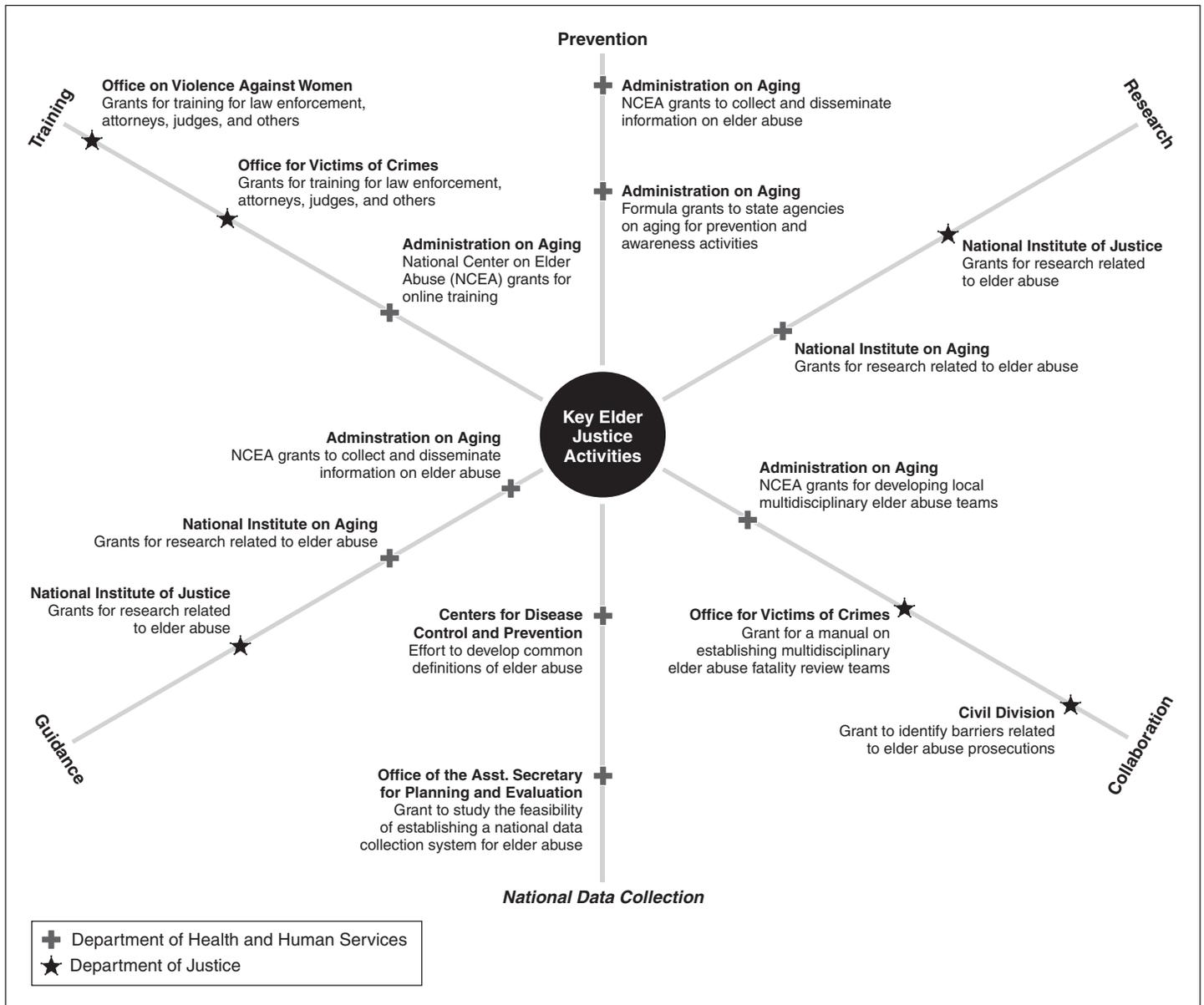
Finally, APS programs sometimes do not receive the support from law enforcement authorities, prosecutors, and financial institutions they need to effectively and efficiently resolve elder abuse cases, according to program officials and experts. Law enforcement authorities are faced with many competing demands on their time, prosecutors may be unwilling or unable to prosecute elder abuse cases, and concerns related to privacy may discourage financial institutions from working with APS on cases of financial exploitation.

**Federal Activities Have
Provided Some Support to
APS, but Federal
Leadership Is Lacking**

Federal elder justice activities, such as training, research, and providing guidance,¹⁶ have been scattered across eight agencies in two departments, HHS and Justice. Figure 1 shows the departments and agencies that funded or implemented federal elder justice activities from fiscal year 2005 through fiscal year 2009.

¹⁶Federal elder justice activities can target elder abuse, as well as health care fraud, consumer fraud, and civil rights violations against older adults. This statement provides information on activities specifically related to elder abuse.

Figure 1: Federal Elder Justice Activities, Fiscal Years 2005 through 2009



Source: GAO analysis of elder justice activities based on interviews with federal officials and related agency documents.

Note: Justice's Bureau of Justice Statistics and National Institute of Justice also issued a grant in 2010 to compare administrative data on elder abuse from a number of sources, including APS.

Note: Justice's Bureau of Justice Assistance also provided a grant in fiscal year 2010 to develop and disseminate a pocket guide for those working in state and local justice systems on legal issues related to elder abuse. The guide will include topics such as powers of attorney, financial exploitation, legal responsibilities of fiduciaries, capacity issues, informed consent, and undue influence in elder abuse cases. It is expected to be available in August 2011.

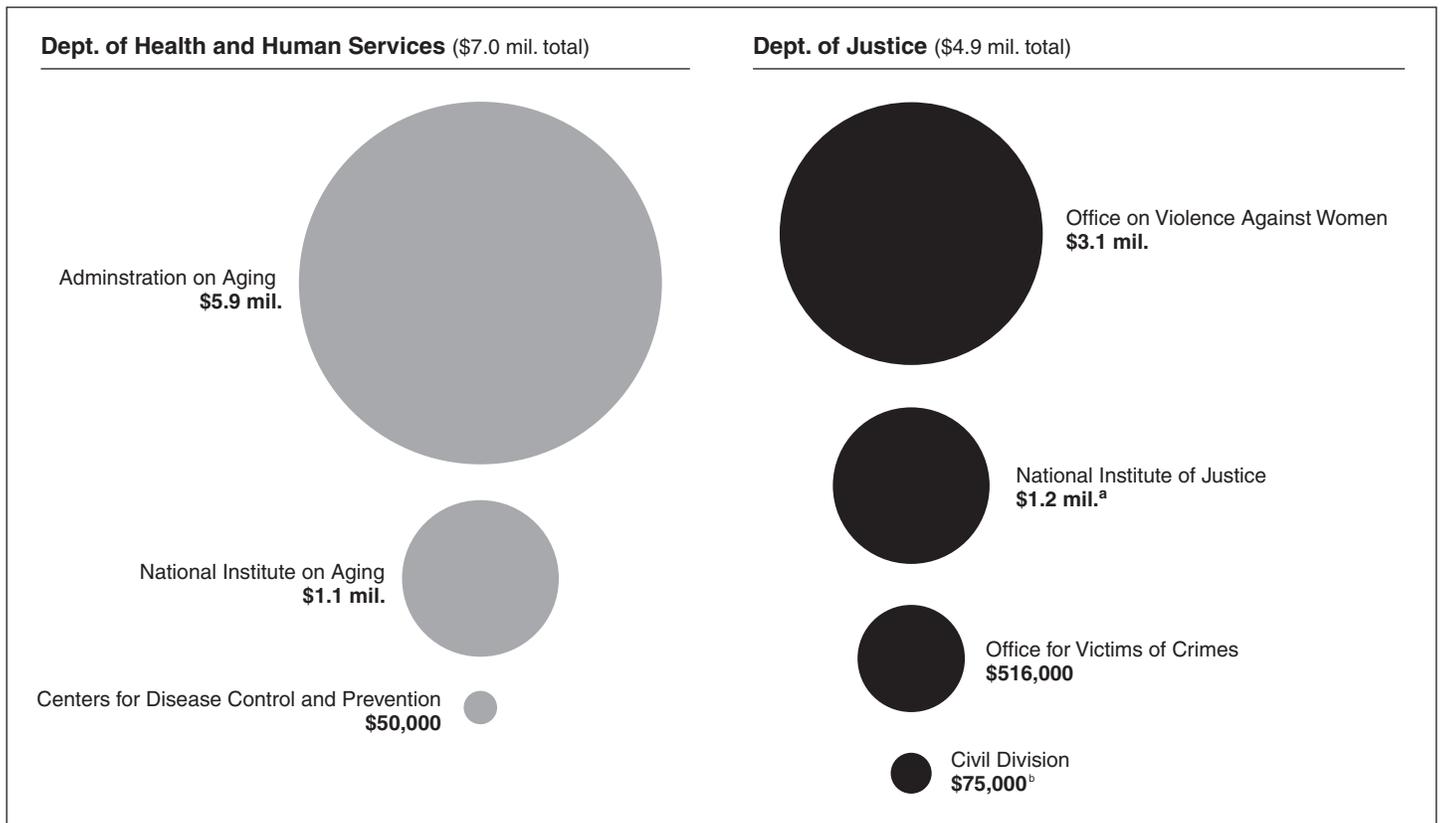
Of the federal elder justice activities described above, only the AoA formula grants for prevention and public awareness of elder abuse could be used to fund APS operations from fiscal year 2005 through fiscal year 2009.¹⁷ Other activities may have indirectly supported APS during that time, but did not provide any direct funding for APS operations.¹⁸

In fiscal year 2009, federal agencies expended a total of \$11.9 million on elder justice activities. Figure 2 shows federal sources of funding in 2009 for elder justice activities and the amount from each source.

¹⁷APS also competed with the broad range of other state programs for SSBG funds received under Title XX of the Social Security Act, but the SSBG is generally not viewed as an elder justice program. The EJA established a separate grant program under Title XX specifically for elder justice activities. 42 U.S.C. § 1397j.

¹⁸While by all accounts OAA formula grants are the sole source of funds for elder justice activities directly available to APS, we did not perform exhaustive legal research to determine if there are any circumstances under which any other elder justice activities could have resulted in funds going directly to APS in fiscal year 2005 through fiscal year 2009.

Figure 2: Amount of Federal Funding Expended on Elder Justice Activities in Fiscal Year 2009, by Department and Agency



Source: GAO analysis of federal funding for elder justice activities based on agency documents and interviews with federal officials.

Note: Size of the circles in Figure 2 are proportional to amount of funding by agency in fiscal year 2009. While the Office of the Assistant Secretary for Planning and Evaluation completed elder justice-related work in fiscal year 2009, funding for this work was provided in fiscal year 2006.

^aOf this amount, \$650,000 came from the Civil Division’s funding for elder abuse research.

^bThe Civil Division also expended \$361,000 in fiscal year 2009 for hiring staff to provide legal and law enforcement support for cases of elder abuse in institutions, although this was outside the scope of our study.

Federal elder justice activities have provided only some support for APS programs to address their challenges. For example, AoA’s National Center on Elder Abuse (NCEA) provides access to a substantial amount of information related to elder abuse on its website, but APS program officials in five of the nine states we contacted told us that relatively little of this information is tailored to their needs. Specifically, the NCEA website includes a database of “promising” practices on a very wide range

of topics. However, AoA officials stated that few of these practices are evidence-based,¹⁹ as they have not been evaluated. Further, most states indicated in our survey that these practices were of no more than moderate use to them. AoA officials also noted that there is a lack of research establishing APS evidence-based practices and interventions.

Although AoA has been required by law since 2006 to develop objectives, priorities, policy, and a long-term plan for collecting and reporting uniform state-level data on elder abuse, to the extent practicable,²⁰ its efforts to do so have been limited to activities such as supporting a recent Centers for Disease Control and Prevention effort to develop uniform definitions for elder abuse.²¹ This effort may help lay the groundwork for a national APS data collection system.²² In contrast, in the child welfare area, HHS has worked with states to improve and compile state administrative data, and hold annual technical assistance meetings to review data collection, discuss challenges, and produce reports based on case-level child welfare data.²³

To support collaboration among APS and its partners, such as law enforcement, AoA has funded projects for developing community elder justice coalitions. In addition, training sessions provided by Justice's Office for Victims of Crimes and Office on Violence Against Women have provided opportunities for law enforcement officers, attorneys, judges, medical professionals, and APS staff to build working relationships.

¹⁹The Centers for Disease Control and Prevention, AoA, and the National Institute of Justice have all emphasized the importance of using the best available evidence to develop a more effective response to elder abuse.

²⁰42 U.S.C. § 3011(e)(2)(A)(iii) and (iv).

²¹This study is expected to be released in early 2011.

²²AoA also provided information to HHS's Office of the Assistant Secretary for Planning and Evaluation for a recently published report on the feasibility of establishing a nationwide system for compiling uniform APS data on elder abuse cases. The report noted several factors to consider when creating such a system and noted ways to strengthen existing APS data systems. Office of the Assistant Secretary for Planning and Evaluation, *Congressional Report on the Feasibility of Establishing a Uniform National Database on Elder Abuse* (Washington, D.C.: March 2010).

²³HHS developed the National Child Abuse and Neglect Data System to collect such data from state CPS programs. States report data through this system to the federal government, to the extent practicable, in order to receive the Child Abuse Prevention and Treatment Act Basic State Grant, which is available to all states to improve CPS systems.

Although the OAA calls for federal leadership in the elder justice field,²⁴ we found that this leadership was lacking. Under the OAA, AoA is the primary federal agency responsible for providing national leadership in the elder justice area, but its efforts to do so have been limited. A senior AoA official noted that AoA has helped facilitate elder justice activities by participating in an informal interagency workgroup that includes agencies within HHS, Justice, and others that shares information on these activities. However, according to AoA officials, this ad hoc group meets infrequently, has no formal structure or charge, and produces no documentation of its meetings.

In addition, no national policy priorities currently exist in this area, and multiple agencies' attempts to establish policy and research priorities over the past decade have produced limited results. Justice's Civil Division recently funded a grant with AoA and the Office of the Assistant Secretary for Planning and Evaluation at HHS to identify and prioritize elder justice policy, practice, and research issues and develop recommendations to the government to address those issues. This effort is expected to be completed by January 2012.

The EJA reaffirmed the importance of federal leadership and provides a vehicle for establishing and implementing national priorities in this area. It mandates the creation of a federal Elder Justice Coordinating Council, to include the Secretary of HHS, the Attorney General, and heads of related federal offices.²⁵ It also mandates the creation of an Advisory Board on Elder Abuse, Neglect, and Exploitation—made up of 27 members of the general public with elder abuse expertise—to propose national elder justice priorities.²⁶

In our report released today, we are making one recommendation that HHS examine the feasibility and cost of providing APS programs access to information on effective practices and interventions and three recommendations to facilitate development of a system for collecting, maintaining, and disseminating nationwide uniform APS case-level data. Specifically, we are recommending that the Secretary of HHS:

²⁴ 42 U.S.C. § 3011(e)(2)(A)(ii).

²⁵ § 2021, 124 Stat. 786-87 (to be codified at 42 U.S.C. § 1397k).

²⁶ § 2022, 124 Stat. 787-89 (to be codified at 42 U.S.C. § 1397k-1).

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- Determine the feasibility and cost of establishing a national resource center for APS-dedicated information that is comprehensive and easily accessible.
 - Direct AoA to develop a comprehensive long-term plan for implementing a nationwide data collection system within a reasonable amount of time.
 - Convene a group of state representatives, in coordination with the Attorney General, to help determine what APS administrative data on elder abuse cases would be most useful for all states and the federal government to uniformly collect, and how a nationwide data collection system should be designed.
 - Conduct a pilot study, in coordination with the Attorney General, to compile, collect, and disseminate APS administrative data.

We provided a draft of our report to HHS and Justice for review and comment. With regard to our recommendations, HHS indicated it will review and explore options for implementing them. Both HHS and Justice provided technical comments that we incorporated into the report, as appropriate.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions that you or any other Members of the Committee may have.

GAO Contacts and Acknowledgments

For questions about this statement, please contact Kay E. Brown at (202) 512-7215 or brownke@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this statement include Divya Bali, James Bennett, Sue Bernstein, Clarita Mrena, Nhi Nguyen, Eve Weisberg, and Craig Winslow.

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