

To Interested Parties:

Attached is the draft agenda for the **November 19th** workgroup meeting on access to the Courts for the less-than-affluent elderly.

GOALS OF THE MEETING:

The purpose of this meeting is to discuss the issues surrounding access to the Courts for the less-than-affluent elderly, and from that, to better define the problem, and discuss various options to consider in addressing the problem. Although I am providing a few examples of proposals to consider in addressing the problem, I welcome other potential solutions that can be discussed at the meeting. To that end, the meeting does not seek only to address only one or two proposals as solutions to the problem, but also to raise other alternatives to address the broader issue.

BEFORE THE MEETING:

It would be greatly appreciated if you could take a few minutes to respond to these questions (or those that you feel comfortable in answering) as this will shed some light on where everyone stands and what other issues need to be covered during the meeting. Please reply to me as soon as possible (by Monday November 17th), and I will compile all answers (without using your name) for everyone's review.

Thank you for your time and attention to this important issue!

QUESTIONS:

Access to Courts:

1. From your experience, to what extent do lack of resources prevent elderly individuals access to the court system? Please provide examples, if possible.
2. How, if at all, have the dynamics of the problem changed over the past 5-20 years? Has this always been an issue, and if so, how is it being resolved, if at all?
3. What has been done, and what more can be done to improve access to the courts for elderly persons who are less-than affluent?
4. To what extent are the courts responsive to the need of the less-than-affluent elder abuse victims for protection?
5. Please review the following proposal, and provide any comments:
<http://www.marchankin.com/redirects/SurveyProposal.htm>

Older persons who cannot afford to hire an attorney and also are not competent to represent themselves in court:

1. From your experience, have you witnessed situations in which elderly, incompetent individuals cannot represent themselves in court and also cannot afford to hire an attorney, therefore denying them access to the courts?
2. If you see this as a problem, what is the solution?
3. Please review this proposal, and be prepared to comment on it during the workgroup discussion:
http://www.marchankin.com/legislative_projects/B&p6125.aad.htm

Standards of competency required for signing wills:

1. Are standards of competency (testamentary capacity) adequate for signing wills? The standard was intended to preserve freedom and control for the elderly. To what extent, if at all, has it become a tool of victimizers, encouraging them to apply inappropriate pressures to people who are too frail to withstand those pressures?
2. Should the standard be higher to that which is required for contractual agreements? What are some issues that could arise if this new standard were required?

--Please let me know if you have any questions or if you would like to request any changes to the Agenda. I look forward to seeing you on the 19th.

Thanks,
Sarah

Sarah Sutro-Steenhausen, Consultant

Senate Subcommittee on Aging and Long Term Care
Senator John Vasconcellos, Chair
Legislative Office Building, Room 545
916.323.8436



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Workgroup Discussion:
Less-than-Affluent Elderly and Access to the Courts
AARP State Office 980 9th Street, Sacramento, Suite 700
Wednesday November 19, 2003 1:30-3:45 p.m.

Tentative Agenda

- 1. Welcome** – Sarah Steenhausen, Senate Subcommittee on Aging & LTC
- 2. Introductions** – All
- 3. Overview of Issues** – Sarah Steenhausen
- 4. Breaking Down the Issues**

Access to the Courts for the Less-than-Affluent Elderly

- Defining the Problem
 - Marc Hankin
 - LAPD (Ret.) Captain Glenn Ackerman
 - Personal Perspectives: Alexia Cirino, Stewart Kayle, Loline Hathoway
- Discussion of the Problem- All
- Discussion of the Solutions- All

Incompetent Older Persons who Cannot Afford to Hire an Attorney

- Defining the Problem
 - Dr. Stephen Read, UCLA Professor of Geriatric Psychiatry
 - Norma Nordstrom, Adult Protective Services for LA County (Ret)
- Discussion of the Problem – All
- Discussion of the Solutions – All

Standards of Competency Required for Signing Wills

- Defining the Problem
 - Dr. Stephen Read
 - Marc Hankin
- Discussion of the Problem – All
- Discussion of the Solutions – All

Question for Discussion: Do lawyers have a duty to take cognizance of obvious competence, or to investigate competence where any reasonable person would be put on notice that a serious question has been raised?

- 5. Conclusions and Next Steps** – Sarah Steenhausen