Social Service Employees Union Local 371

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June 14th, 2007
City Council Committees on General Welfare and Aging Oversight Hearing: "Reforming Adult Protective Services to Better Serve Vulnerable Clients"

Hello. My name is Wana Ulysse and I am the Vice President of Political Action for Social Service Employees Local 371, which represents Caseworkers and Supervisors in Adult Protective Services. I am here today with Caseworkers Omo-Osagie, who has worked for APS for 10 years and James Lewis, a 19-year veteran.

For a long time APS has been a neglected part of HRA. It has historically been understaffed and overlooked. We believe this is the time for change. APS has a particularly difficult population to serve. The current housing crisis, an aging population and various court cases have resulted in rapidly rising caseloads. Although caseloads are high throughout the city, the boroughs of Manhattan and Brooklyn have a critical situation, and with such high caseloads it makes it difficult to provide services to clients.

We would like to suggest important areas for improvement:

Heavy duty cleaning – Caseworkers are required to stay in a client's home while it is being thoroughly cleaned. This can take a day or two, pulling workers away from vital work on other cases in their caseloads. A pilot was proposed and accepted by the agency nearly a year ago to use Community Associates for this job, freeing Caseworkers to do other tasks. This pilot has not gone forward and needs to be put in place citywide. In addition, it is our contention that no matter who does this function, they must be adequately trained and provided with the proper safety equipment.

In connection with cleaning the City is experiencing an infestation of bed bugs. The agency needs a policy to protect workers adequately from chemicals used to rid apartments of the

bugs. Right now workers do not have adequate training, equipment or procedures to ensure their clients' safety, their own safety or the safety of their families.

Workers complain of inadequate training on the complicated process of establishing legal guardianship. Currently in Manhattan there is only one attorney handling the guardianship cases, and she is overwhelmed. In addition, workers need additional training in the extensive documentation needed to fully complete the process, leading to "packages" of documents being returned to workers and further delays clients receiving assistance.

We have suggested that additional psychiatrists be provided for evaluations and exploring special social work units for extremely hard cases. Such units would assist in speeding up the referral process and getting services to clients sooner. Also, we have requested special procedures and training for all workers on the proper handling of highly agitated and violent clients.

We have suggested a court liaison unit in each borough to cut down on the time caseworkers must wait in court, so that they can concentrate on their case management duties.

In sum, we welcome the City Council's looking at APS and welcome its oversight. We hope to work positively with both the Council and the agency to make improvements in this vital program.

Testimony

Submitted by

Howard Haskin
Case Manager

Special Services for Senior Citizens
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on

Reforming Adult Protective Services to Better Serve Vulnerable Clients

Presented

at a

Public Hearing

sponsored by
Committee on Aging
and
Committee on General Welfare

of

The Council of the City of New York

on

June 14, 2007

Good Afternoon.

My name is Howard Haskin and for the last 14 years I worked as a case manager for Special Services for Senior Citizens (SSFSC) a not-for-profit community based agency serving the elderly in Community District #18 which includes Canarsie, Mill Basin, Marine Park, Bergen Beach, Flatlands and Georgetown neighborhoods of Brooklyn. SSFSC conducts in-home assessments for the frail elderly to evaluate their strengths and weaknesses and develop care plans for the provision of meals-on-wheels, homecare, housekeeping, information and referral, transportation, entitlement and benefits and case management.

Case Managers work in tandem with families to ensure their older relatives remain safely in their own home with appropriate support systems.

Prior to SSFSC, I worked for 7 years at Jewish Association for Services for the Aged (JASA) with the final 3 years as a caseworker for JASA Adult Protective Services (APS) where my efforts focused on at-risk clients over 60.

I thank this committee for this opportunity to share my concerns about at-risk elderly under the care of NYC APS. As someone who has had the opportunity to know how APS functions from the perspective of an APS worker as well as from the perceptive of someone who has referred at-risk senior citizens to APS, I understand the problems and potential solutions to improve the reliability and responsiveness of APS.

When we determine a client is engulfed in an at-risk situation such as not having the physical and/or mental capacity to adequately address their own daily needs or they are a victim of abuse or neglect, this client's situation is our highest priority. Therefore, we refer to APS to remove the client from the at-risk situation through accessing services exclusive to APS such as heavy duty cleaning, psychiatric evaluations, legal consultations, access to expedited medicaid homecare and financial management, just to name a few. Unfortunately, from the moment the referral to APS is made we are met with a general attitude of minimizing the client's situation. The entire intake process seems to be designed so APS ultimately does not accept a case. If we are successful in getting APS to accept a case we then must deal with APS supervisors and case managers that do not return phone calls. On many occasions when we are finally successful in contacting the APS case worker to obtain the status of a case we then and only then are told that the case had been transferred to a different caseworker without notification. In general, case managers from community-based agencies are treated as enemies not allies.

SSFSC is a voluntary agency and we are only able to assist clients who agree with and request our assistance. Our relationship with clients is to advocate for their need for formal assistance and services so they can remain in the community safely and with quality. APS's role is to intervene in the life of an at-risk client, acting in their best interest, even if the client resists assistance. On many occasions, APS has closed cases based upon the at-risk client rejecting

APS services. These clients fall through the cracks and all we are empowered to do is to re-refer clients and to maintain our determination to remove clients from their at risk situation. When I was a JASA-APS caseworker we were a very small operation with only a few caseworkers and excellent supervision. I welcomed working side-by-side with community-based agencies and I can honestly say it was that mutual relationship which increased the success rate of removing clients from their at-risk situations.

The strengths that APS has to offer can only be measured by their weakest link. APS's weakest link is their sheer size and lack of a sense of community.

On a positive note, most recently I had a client who was in a very high-risk situation due to physical and financial abuse as well as mental incapacity to address her Activities of Daily Living (ADL) including financial management. In this particular case, I was fortunate to have an APS caseworker who communicated with me and we truly functioned as a team to develop short and long term goals.

Though there were major miscommunications throughout the bureaucratic insanity that is typical of APS, we nonetheless remained focused. I am happy to report that this client now resides in an assisted living facility and has a guardian to oversee her needs. As a result this client's quality of life exceeded all expectations.

It is my opinion that we should not be taking this time to improve, or to fix

APS, but I truly believe this is an opportunity to explore entire new approaches to the at risk population in NYC, particularly for the elderly. In life sometimes less is more. Consequently, we need to view community-based agencies as partners.

Community based agencies have an investment in the communities they serve and can provide the concept of adult protective services with greater humanity and less bureaucracy.

Again I want to thank this committee for the opportunity to express my opinions and to ask this committee to incorporate an open-minded approach to all comments heard today. We owe the at risk population a chance to improve the quality of their lives even when their mental state of mind prevents them from accepting services to achieve that goal.

Thank You.

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CHARLES J. HYNES
District Attorney

NYC COUNCIL COMMITTEES ON AGING HEARING & GENERAL WELFARE: *REFORMING ADULT PROTECTIVE SERVICES TO BETTER SERVE VULNERABLE CLIENTS*

June 14, 2007
1:00 P.M.

Representing Kings County District Attorney Charles J. Hynes:
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OUTLINE OF TESTIMONY

1. **Some Statistics:**
   - **New York State ranks as the 3rd state with the most senior citizens**
   - **Approximately 1.3 million seniors residing in New York City**
   - **Approximately 400,000 seniors residing in Kings County**
   - **Since creation of the Elder Abuse Unit in 1999, Kings county has had approximately 19 domestic elder homicides: 17 were "parental" homicides, i.e., committed by adult child/grandchild; 2 were "intimate partner" homicides**
   - **All of the defendants in the parental homicide cases suffered from some degree of mental illness and/or substance abuse problem**
   - **The Kings County District Attorney's Domestic Elder Abuse Unit sees approximately 250 cases per year, as well as handling many calls from the community and senior service agencies.**
   - **The typical abuser is the adult child or grandchild who lives with the senior in the senior's home, is unemployed and suffers from mental illness and/or a substance abuse problem**
   - **The motive for most of the crimes is money**
   - **Most crimes against the elderly include both physical and financial abuse**

Note: Certainly, all people who suffer from mental illness are not violent. However, the combination of mental illness, self-medicating with alcohol or drugs, unemployment and living at home with an aging parent can be volatile and put the senior citizen at risk for injury.

2. Social Services Law section 473 (5) provides that Adult Protective Services [APS] is a mandated reporter of adult abuse. In fact, unlike many other states which have mandated reporting, APS is the only mandated reporter in New York State.

3. Since APS has this very important responsibility, it is imperative that the following changes be implemented:

- Regular, institutionalized training in the identification, investigation and reporting of elder abuse to law enforcement agencies. Currently, there is no such training. As a result, APS caseworkers are unable to identify elder abuse and valuable evidence becomes lost. Furthermore, victims continue to be abused. In financial abuse, the goal must be to "stop the bleeding" as soon as possible—i.e., stop the abuse before the victim looses all his/her money and property. In the end, this would save the city money because victims will be able to stay in their own homes and pay for their own home care and meals. In physical abuse cases, immediate measures need to be taken to protect the victim and prevent further injury or death. The older we get, the harder it is to bounce back from injuries. It takes a lot less force to cause serious injury. APS caseworkers need to be properly trained so that they know how to handle the situation and provide safety for their clients. This includes preserving evidence and learning how to communicate with NYCPD so that an accurate police report is filed and action is taken;

- APS must create a stronger relationship with the NYCPD—in fact, there is no relationship at this time. Every police officer must be made aware of the role of an APS caseworker so that they will take reports from them and escort them to possibly dangerous situations;

- "Elder Abuse Specialists" should be assigned to each borough. These specialists would be in charge of training their people and reviewing cases with them, as well as being liaisons with law enforcement agencies.

- Clearly, more caseworkers need to be hired. The high caseloads prevent them from spending enough time with each client so that they may properly assess their needs and take the required action.

- Furthermore, since it appears that there is approximately a 6-9 month backlog with guardianships, more attorneys should be hired as well. Attorneys must make much more use of "Temporary Restraining Orders" so that immediate relief can be obtained through the courts while waiting for the Guardianship petition to be filed and calendared on the Court docket. This is especially important in both financial and physical abuse cases. In financial abuse, the Courts can assign Temporary Guardians and freeze assets to prevent abusers from wiping out the victim. In physical abuse cases, Protective Orders can be issued against abusers. In neglect cases, the Court could order home care which the abusers cannot terminate without prior Court approval.

- **Psychiatrists working with or for APS may also need forensic training in identifying elder abuse. It appears that there are many instances that while the victims may be "competent", they are unable to protect themselves from abuse. Yet, the psychiatrist's recommendation will be that guardianship is not needed. The psychiatrists must incorporate the investigations by APS and law enforcement into their findings and recommendations. It shouldn't be an all or nothing approach. Competency vs. Non-competency. Guardianship vs. no Guardianship. There is plenty of middle ground. Guardianship for limited purposes can certainly be recommended when necessary.**

4. **Many cases of elder abuse cannot be prosecuted because the victims are not willing or able to participate in the prosecution. This is why APS and guardianships are so important. Even if there is a viable prosecution, the criminal justice system attempts to hold offenders accountable for their actions. While the District Attorney's Office and Family Justice Center help victims access services, the ongoing care and protection of vulnerable adults rests solely on APS and the Guardianship Courts.**

5. **In closing: I have reviewed the Public Advocate's report regarding APS dated December 2006. The findings in that report are consistent with some of my experiences with APS. I certainly agree with most of the recommendations, especially the increasing of staff. <u>However, the issue of elder abuse was not addressed at all in the report. Nor is it mentioned that APS is the only mandated reporter of elder abuse in New York State.</u> As a prosecutor and the Chief of the Elder Abuse Unit, I have been working with elderly victims since 1999. I know we have only touched the surface of criminality directed towards the elderly. We all know people are living longer. Many seniors are homebound. They are no longer "expected" anywhere, e.g., school, work, etc.. Most of their family has moved. Their friends are gone. They are the perfect targets for abuse. The victims don't need to be rich—they just need to have an apartment and a monthly check for someone to move in and take over. APS must be trained to be able to identify the signs of elder abuse and the evidence that needs to be preserved for prosecution or guardianship proceedings. APS must be able to identify elder abuse so that it can provide safety for their clients, expedite guardianships when necessary and properly report the abuse to law enforcement.**

Testimony of Jane Greengold Stevens, Esq.
Director, Special Litigation Unit
New York Legal Assistance Group

Joint Hearing Before the Committee on Aging
and
The Committee on General Welfare

New York City Council

June 14, 2007

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Testimony of Jane Greengold Stevens, Esq.
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I am the Director of the Special Litigation Unit at the New York Legal Assistance Group, a non-profit legal services office providing a wide range of civil legal services to indigent people. The SLU focuses on impact litigation intended to ensure that clients receive benefits and services to which they are legally entitled, as well as protection of their constitutional and statutory rights. I myself have been representing indigent clients in civil cases for over 35 years.

For the last five years I have been representing clients who were or are getting, or needing and not getting, help from APS. Naturally, the people I hear about are the people who are having problems; the others have no need for my services. It is also true that the APS clients I hear from are those that have the ability to actually seek legal assistance, a capacity that the majority of APS clients lack. So my experience cannot be entirely representative. But I have spoken to enough APS clients to know that there are many serious problems in the delivery of services to APS clients.

In 2002, my office filed a class action, Vega v. Eggleston, challenging a wide range of failures by APS. We settled the case 2 years later. During settlement talks, we narrowed the issues and the definition of the class to focus only on APS's denial of services to people in two categories: those who were denied APS services because their main need was for assistance in protecting or obtaining shelter and those who were denied APS services because they supposedly had third parties to help them.

Since 2002, when we first filed the Vega case, I have received calls from time to time from clients, social workers, attorneys, and others, complaining about APS.

As a result of this stream of calls, NYLAG recently filed a new class action in federal court, Belovic v. Doar, challenging failures by APS to provide services to clients it has accepted into its care. As a result of filing this case, my office has received even more calls over the past two months regarding clients who are not receiving the protective services they need from APS.

I am therefore aware, through anecdotal reports by both clients and advocates, of patterns of problems in the delivery of mandated adult protective services.

I should also say that my own contacts with APS clients have made me sympathetic to the grave difficulties faced by APS in providing these services. It is a hard job. My goal in testifying here, and in bringing these lawsuits, is not to lay blame, but to push both the City and the State to direct resources and attention to an agency with a difficult job.

I want to give the Committees a very brief description of some of the problems we are seeing.

- **Failure to identify and timely, adequately and/or fully address clients' ongoing service needs.**

  The difficult job of APS caseworkers requires the exercise of judgment and the application of expertise. The caseworkers must identify problems and seek solutions. Often they do neither.

  A critical problem in the delivery of services to APS clients is APS caseworkers' habitual failure to identify problems and/or issues with which their clients need assistance. The current mode of operation of APS caseworkers and supervisors appears to be largely reactive, not proactive. They tend to wait until the clients or others point out problems before attempting to resolve them, and even then, many case workers fail to attempt to resolve the problem. The mission of APS is to help people who are, by definition, incapable of managing their own lives and who do not have others to assist them. Usually, this means these individuals are incapable of identifying or articulating problems with which they need assistance.

  The lead plaintiff in our current case, Ms. Matilda Belovic, is a 94 year old ex-nun who was put in a concentration camp during World War Two. She is a charming cooperative lady who suffers from mild to moderate dementia.

  Ms. Belovic is clearly not competent enough to alert her APS caseworker that her food stamps need to be recertified. Her APS caseworker should be assessing her ongoing service needs sufficiently to know that her food stamps need to be recertified, and would then be ready and able to take the appropriate action. Instead, Ms. Belovic's food stamps were terminated in July 2006 because she had not been recertified since August 2005.

- **Failure to communicate with clients, social workers, and other agencies and/or individuals involved in the provision of services to APS clients.**

  Because APS has neither the obligation nor the resources to directly provide all the services needed by its clients, a critical element in its ability to protect its clients from harm is coordination with other service providers. APS is not good at this.

  Caseworkers and supervisors are very difficult to reach: their voicemails are frequently full so that clients and others cannot even leave messages. I have often experienced this myself, and clients and workers at almost all social services agencies with which I have spoken have complained about this. Even if a client or advocate does leave a message, it frequently goes unreturned; faxes and e-mails go unacknowledged. As a result, clients are deprived not

only of the help of APS but also of the help of other people and agencies who are trying to help them.

Ms. Belovic's experience is a good example of these problems. She is, and has for many years been, served by several social services agencies in the Bronx. A Medicaid home attendant provides Ms. Belovic with home care services. Several New York City Department for the Aging contract agencies supply Ms. Belovic with services: the Bronx Jewish Community Council ("BJCC") provides EISEP case management including weekly visits from a student intern; RAIN provides daily lunch and supper home-delivered meals; and the mental health unit of JASA provides counseling on a weekly basis.

On October 17, 2006, Ms. Belovic's APS caseworker went to her home and told her that they were going on a visit. The caseworker took her to a nursing home and had her admitted. Before removing Ms. Belovic from her home, APS did not consult with any of these agencies to determine what, if any action should be taken. Even after involuntarily removing Ms. Belovic from her home, APS didn't notify Ms. Belovic's community service providers to alert them of her transfer to a nursing home. Ms. Belovic's nurse and home attendant arrived the next day to find her gone.

As described below, even after Ms. Belovic's food stamps were terminated because APS failed to help her recertify, BJCC was prevented from assisting her reinstate her food stamps because APS did not return phone calls, provide necessary documents that were in their sole possession, or otherwise cooperate and communicate with BJCC.

- **Failure and/or refusal to assist APS clients in finding other resources in the community, such as appropriate health care providers.**

One of the critical mandates of APS is to assist clients in locating the resources they need to provide the care, including legal services and appropriate medical care. This mandate is often unfulfilled.

Prior to the filing of the case, APS client Maureen C. had not been receiving appropriate physical or psychiatric treatment or care. When desperate, she intermittently went to emergency rooms at local hospitals to obtain prescriptions for the medications she needed to treat her bi-polar disorder, depression, and anxiety disorder. She had no continuity of medical care or ongoing treatment; she did not even have a primary care physician. Only after we filed the case did APS provide any assistance to the client in finding ongoing appropriate medical care.

- **Failure to apply for and to protect continuing eligibility for public benefits.**

  The case of Madelaine Andrews is a typical example of the problems experienced by APS clients regarding public benefits. Ms. Andrews, an 85-year old woman suffering from numerous debilitating illnesses, was referred to APS because she needed assistance applying for Medicaid. In September 2006, Ms. Andrews' APS caseworker told Ms. Andrews that she would help her apply for Medicaid. However, it took more than seven months for APS to complete Ms. Andrews' Medicaid application. During that time, Ms. Andrews received threatening collection letters and notices of legal action from medical providers because she had not paid her outstanding medical bills.

  Similarly, APS failed to assist Ms. Belovic in maintaining her Section 8 voucher and in recertifying for food stamps. Her food stamps were terminated in July 2006 because she had not been recertified since August 2005. Fortunately, Ms. Belovic was also a client of Bronx Jewish Community Council. When BJCC learned of this termination, they immediately notified APS that action needed to be taken to restore her food stamps, but got no response from APS. Finally, BJCC itself attempted to help Ms. Belovic recertify but needed several documents that were in the possession of APS. Not only did APS fail to assist in the recertification, but they failed to return numerous phone calls or even provide the documents in their possession.

- **Failure to timely and adequately manage clients' finances and long delays in instituting financial management.**

  APS frequently fails to institute financial management in a timely manner. For example, financial management was not begun for Ms. Belovic until over one year after she was referred to APS with a specific stated need for financial management.

  Even when APS attempts financial management, it often does an inadequate job. After financial management services were finally instituted for Ms. Belovic, she continued to experience problems because APS failed to notify ConEd and the telephone company to divert her bills to APS. Thus, she continued to receive the bills but had no means of paying them because her Social Security funds were being sent directly to APS.

  APS was responsible for paying plaintiff Mary B.'s rent, utilities and other bills. However, she frequently received threatening 3-day notices to vacate her NYCHA apartment because APS was failing to pay the rent in a timely manner and/or failing to alert NYCHA of the date of scheduled payment. This caused the client considerable distress as she believed that she was going to be evicted from her home and would have nowhere to go. Moreover,

during the summer of 2006, NYCHA commenced a housing court proceeding for non-payment - APS had entirely failed to pay her rent for the preceding several months. The proceeding was discontinued when APS admitted its mistake. However, later that same year, NYCHA instituted another termination of tenancy proceeding against Ms. B. because of APS' failure to pay her rent on time. It was not until we filed the class action lawsuit, that Ms B. stopped receiving notices to vacate her apartment and other notices regarding failure to pay her rent.

- **Heavy-duty Cleaning: the need to change the structure**

APS is required to provide, and does provide, heavy duty cleaning for clients whose homes are unsafe or unsanitary. However, APS has basically one model for this service: a contractor comes in and cleans things out in one fell swoop. Because heavy duty cleaning is most often needed by people with psychological problems related to hoarding, this process is often intolerable to them. As a result, they refuse the help. Frequently heavy duty cleaning is a prerequisite to obtaining home care services, because the home care workers cannot be asked to work in unsafe environments. APS should arrange other, more gradual, and more psychologically supportive, models of heavy duty cleaning to make it truly available to those who need it almost.

- **Long delays in applying for Article 81 guardianships.**

APS frequently fails to apply for Article 81 guardianships in a timely manner. In November 2005, Bronx Jewish Community Council ("BJCC") began to urge APS to obtain an Article 81 guardian for Ms. Belovic to manage all of her money. She consistently gave money in response to various mail scams and requests for donations from illegitimate organizations, as well as making donations that she could not afford to legitimate organizations. Despite the fact that BJCC continued over the next year to request a guardianship for Ms. Belovic, APS failed to apply for an Article 81 guardian. It was only after we filed the class action lawsuit, that APS finally made an Article 81 guardian application for Ms. Belovic. Ironically, APS stated that one of the main reasons for Ms. Belovic's admission to the nursing home was to enable APS to expedite an application for an Article 81 guardian for Ms. Belovic; this makes no sense since a person in a nursing home does not need an Article 81 guardian.

- **Delays or refusals to seek appointment of a *Guardian ad Litem ("GAL")* for APS clients in housing court for inappropriate reasons.**

Another of the named plaintiffs in our current case, Maureen C., typifies the problems experienced by APS clients in this regard. APS has failed and/or refused to seek the appointment of a GAL for Ms. C. in two separate court

proceedings. Last year, Ms. C. was involved in a non-payment proceeding in Housing Court. Ms. C. obtained the services of an attorney to represent her in that case by happenstance; the attorney noticed Ms. C. while waiting in the in courtroom for another case to start - Ms. C. was shaking uncontrollably and experiencing severe panic attacks in the courtroom, she was clearly terrified of the court proceedings.

Ms. C. suffers from several severe psychiatric disorders and was assessed by APS to have a "serious impairment in social, occupational, or school functioning."

Ms. C.'s attorney repeatedly requested that APS seek the appointment of a GAL in the non-payment proceeding against Ms. C. because she was unable to make reasoned decisions in her own best interest and could not communicate with her attorney regarding the legal proceedings. However, APS refused to seek the appointment of a GAL on the basis that she had an attorney, a clearly erroneous decision. Representation by an attorney in no way obviates the need for a GAL. Whether a person has an attorney is entirely unrelated to the question of whether a GAL should be appointed.

Currently, Ms. C. is facing an Ejectment action to force her to vacate her apartment. Despite the numerous requests and obvious need, APS has once again refused to seek the appointment of a GAL – the stated reason this time is that she does not need a GAL because she can adequately function. However, no psychiatric examination was performed to assess her functioning ability at this time, and even relying on the more dated psychiatric report performed by APS over a year ago, it is clear that Ms. C. is functionally impaired.

- **Inappropriate nursing home placement instead of timely and adequate provision of services in the community.**

This is one of the most troubling practices employed by APS, as can be seen by Ms. Belovic's story. In October 2006, APS, apparently worried by several incidents, transferred Ms. Belovic to a nursing home involuntarily. She went with the APS worker, believing she was to look at the nursing home and then return home. They packed no clothes, made no preparation. She had no idea they would leave her there. They did not seek a court order for involuntary protective services. The personnel at the nursing home promptly concluded that Ms. Belovic was fit to return to her home in the community. However, it is likely that APS would have closed Ms. Belovic's case after they left her in a nursing home, had my agency and others not been involved in her case.

If her caseworker had really feared for Ms. Belovic's safety, placing her in a safe environment for a few days while obtaining more hours of home care

and/or other services, might well have been justified. But APS made no such efforts, either before the nursing home placement or until we filed the case.

From the beginning, Ms. Belovic was desperate to return home. She had been institutionalized against her will.

Ms Belovic's story is not unique. In 2004, I received a call from a community based agency in the Bronx about a man who had been taken by APS to North Central Bronx Hospital. He had been told by his APS worker that he was being taken to the hospital for a few days while APS arranged heavy duty cleaning for his apartment and arranged for various other supportive services for when he returned home. In fact, however, he was admitted to the hospital as a "social admission," meaning he had no medical need to be there, and he lived there for over a year. APS told his landlord—without telling Mr. N—that Mr. N. would not return to his home; the landlord thereafter disposed of all his possessions, including all his identification documentation, checkbooks, and other financial and personal documentation, and rented the apartment to someone else.

This man had lived in this apartment since his birth. He was 59 years old when he was removed.

I saw pictures of the apartment, and clearly the conditions were unacceptable, and he was not capable of living there without heavy duty cleaning, home attendants, and other services. But instead of attempting to restore this man to his home with appropriate services, APS simply took him to the hospital and washed their hands of him.

- **Caseworkers are unaware of the scope and extent of protective services they should provide to clients.**

A common cause of problems in the delivery of protective services to APS clients is caseworkers' misunderstanding of the scope of required services they must provide to clients in need of assistance. The case of Ms. H. illustrates the nature of this problem.

Ms. H has been an APS client for the past year and a half. Ms. H. is physically disabled and has some cognitive difficulties following a stroke. In December 2006, Ms. H.'s cash assistance and food stamps – her sole source of support - were discontinued because she failed to recertify. Prior to this discontinuance, she had continually asked both her APS caseworker and her caseworker's supervisor, for assistance in arranging for homebound recertification and for assistance managing the recertification process. She was told repeatedly that APS "didn't do public benefits" and that they would not help her manage the recertification process. After her cash assistance and food stamps were discontinued, she contacted her job center worker who told her that in order to

have her benefits reinstated her job center worker needed to speak with her APS worker. Ms. H repeatedly asked her APS worker to contact her job center worker so that she could get the subsistence benefits she needed to survive. APS failed to contact Ms. H.'s job center worker.

When her cash assistance and food stamp benefits were discontinued, Ms. H became very concerned that her Medicaid benefits being would also be discontinued. Once again, she asked her APS worker for help with that recertification. Her APS worker refused to assist her, telling her that APS did not provide that type of assistance. In January of this year, Ms. H's Medicaid was discontinued, leaving her without access to numerous prescription medications she desperately needed. APS did nothing to assist Ms. H in getting her Medicaid benefits reinstated, again telling her that APS didn't have anything to do with public benefits. Several weeks later, Ms. H contacted the Public Advocate's office who helped her secure APS's assistance with reinstating her public benefits.

Unfortunately, Ms. H experienced a similar problem with her SSI/SSD application. The APS caseworker and supervisor involved in her case have routinely told her that APS does not provide its' clients with any assistance applying for SSI or SSD benefits. She was told by the APS supervisor that she had to do it entirely on her own, and that the only way she could apply for SSI benefits was to physically go to her local Social Security office by herself. Ms. H. is physically disabled and was unable to go to her Social Security office by herself. Moreover, SSA has a system that people can use to apply for SSI/SSD benefits over the phone. Because APS failed to help her apply, Ms. H. is still without SSI or SSD benefits at this very moment.

* * *

I thank the General Welfare and the Aging Committees for the opportunity to share my experiences representing clients of APS. As I and others have testified, APS is failing to satisfy its duty to protect vulnerable adults from harm. APS – and New York City – must do better.

COUNCIL OF THE CITY OF NEW YORK
COMMITTEE ON AGING
COUNCILWOMAN MARIA DEL CARMEN ARROYO, CHAIR
COMMITTEE ON GENERAL WELFARE
COUNCILMAN BILL DE BLASIO, CHAIR

TESTIMONY

REFORMING ADULT PROTECTIVE SERVICES TO BETTER HELP VULNERABLE CLIENTS

JUNE 14, 2007

For further information, please contact:

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My name is Judy Willig and for the past 20 years I have been the Executive Director of Heights and Hill Community Council. Heights and Hill is a 36-year old community based non-profit organization that provides social services to the elderly of Brooklyn Heights, Cobble Hill and Boerum Hill in Brooklyn. Our mission is to ensure that our older neighbors can live safe and independent lives as members of our community, thereby avoiding or delaying costly and impersonal institutionalization. Special emphasis is placed on serving those who are frail and without family supports. Services include meals-on-heels, transportation, health promotion, education, and our core service, case management.

In my professional career, there are a number of cases that stand out as particularly disturbing – these are the cases that I always jokingly say will be a "chapter in my book" when I write my professional memoirs. Many of these cases have in some way involved Protective Services. I will tell you two of them:

Ms. E:

A senior bank officer approached me one day while I was doing my personal banking. With tears in her eyes, the officer told me of Ms. E, a long-time customer of the bank, who seemed to be getting very confused and forgetful. According to the officer, on several occasions, a man named "Mike" accompanied Ms. E. to the bank, instructing her to withdraw $35,000-40,000 in cash, or have bank checks made out to him. The bank officer, knowing Ms. E. to have memory issues, questioned her each time, to make sure she really understood and wanted to give this money away. If Ms. E hesitated, Mike would become belligerent. Due to banking regulations, the bank officer could not deny the withdrawal; the money was turned over to Ms. E, who then gave it to Mike.

Coincidentally, the local senior center had referred Ms. E to Heights and Hill the prior week for meals on heels; when we had called her, she politely said she didn't want any of our services. Given this new information from the bank officer, I became more aggressive than usual in our follow-up: We conducted a home visit for a thorough assessment of the situation. This was in January of 2006, days after a snow storm. We found Ms E. in sandals, with bare legs and a thin coat, walking home from the senior center. It was very clear to us right from the start that Ms E had rather advanced dementia.

Ms. E was in her early 90's and had been fiercely independent all of her life. A professional woman who had never married, Ms. E had a few relatives around the country, but no close relationships. She acknowledged a friend named "Mike" and said he helped her do things around her house, but she denied giving him large sums of money. She admitted paying him to do some chores for her, but had no recollection of how much. Her apartment was fairly clean, but her appearance was somewhat unkempt and she was wearing the same outfit that she had worn to our community Thanksgiving Dinner a month and a half earlier. In fact, she wore the same outfit every time we saw her over the next six months. She had no recollection of the date or the time. If it weren't for a calendar that she carried with her, in which she kept copious notes, she wouldn't have had a clue about what day or date it was. She hadn't had any medical care in years.

In January, 2006, we contacted APS to make a referral and discovered that there had been an open APS case two years prior, referred by the senior center. That referral stated that a man named "Mike" had been financially exploiting Ms. E and had been verbally abusive to her. While APS had made an assessment and a psychiatric evaluation was conducted, the case had been closed. When asked why, APS was unable to provide an explanation. A new "emergency" psychiatric evaluation was performed, which clearly stated that Ms. E showed signs of dementia, and that her judgment was poor. The psychiatrist recommended that a guardian be appointed to protect the property and well being of Ms E. He recommended that this case be referred to the District Attorney to prosecute Mike.

After numerous unreturned phone calls to APS, we were informed--months later--that the case for guardianship was rejected by APS's own internal legal department and that the case could not be sent to the DA, since there was not enough evidence and Ms. E had no memory of the events prompting the referral.

We requested a case conference with the Director of Client Services and the Borough Director of APS to discuss Ms. E and several other cases that seemed to be stalled. We were told at this conference that the first psychiatric evaluation (conducted by APS two years earlier), showed similar results to the more recent evaluation; that the client suffered from dementia, and that she had impaired judgment. In short, recommendations by APS's own evaluators were ignored and two years later, similar findings by APS evaluators were rejected by APS's own legal department.

At the case conference, in response to our incredulity, we were told by APS that if we had further information documenting Ms. E's incapacity, we could request a review, an option about which we had never been told before. The following day we documented all the things we had verbally told the APS worker and faxed this information along with the request for a review.

The case was finally moved toward guardianship, and was then fast- tracked by HRA Legal, where the supervising attorney stated that "this is just the type of case that the statutes were written for." Temporary guardianship was finally put in place in August 2006, (7 months after we made the referral) and after more than $130,000 was taken from Ms. E. In total, we suspect Mike walked away with approximately $175,000. The guardian was to take charge of Ms. E's finances and to obtain medical care for her.

Three days after the guardian was appointed, Ms.E. was found on the floor of her apartment, having suffered a stroke. Once in the hospital, she was also diagnosed with advanced breast cancer. Had she received medical care earlier, perhaps she could have been treated. We will never know. She is currently in a nursing home and probably will die there.

<u>Ms. Q.</u>

Ms. Q was referred to Heights and Hill by her physician of many years. The doctor made the referral after Ms. Q arrived for her appointment and presented a shoe box to the doctor containing over $200 in cash, junk mail, unopened envelopes and partially eaten sandwiches. Ms. Q stated that she didn't know what to do with these items and asked for the doctor's assistance. Ms. Q lives alone and has no family. Not much is known about her history. Upon assessing the client, the Heights & Hill social worker made a referral to APS stating that Ms. Q had been seen wandering around the neighborhood, asking for help from strangers to get into her apartment. The social worker noted that Ms. Q had significant short-term memory loss, and answered all questions with vague answers, very common for people with dementia. The client mentioned a neighbor downstairs, whose name she could not remember, who invited her for dinner once a week. Besides that, Ms.Q could not remember where or when she would eat. The Heights and Hill social worker contacted the local senior center to see if she was known there. The staff there reported that Ms. Q has had significant decline in cognitive function over the past year, and that on a recent trip to Atlantic City got lost for many hours. Eventually, Ms. Q was found by center members, but when they arrived back in New

York, she could not remember her address. When a member of the center took her home, Ms. Q did not recognize her apartment and became agitated, insisting that she did not live there.

In following up with the assigned APS worker, our social worker was told with annoyance that Ms. Q was never home for an interview. Our social worker had noted on the APS referral to contact her prior to visiting Ms. Q. to help facilitate a meeting. The APS worker, instead, closed the case due to lack of contact. Our social worker protested, and the case was reopened. Although Ms. Q seemed vulnerable, disoriented, at risk and in need of formal supervision, the APS worker subsequently closed the case shortly after seeing Ms. Q. The APS worker contacted the downstairs neighbor and asked him if he would assist with bill payment for Ms. Q. The neighbor agreed, but did not have a Power of Attorney. Although the APS worker felt that this was a good plan, this arrangement did not address the need for a higher level of supervision, the need to have home care, or the possibility of long term placement. Nor did it really assess what the neighbor's level of involvement would or should be. When questioned about this situation at the above-mentioned case conference held with APS, the worker continually commented about how "strong" Ms. Q was because she was able to walk several miles per day, surely a sign of the client's physical fitness. It appears that the worker had missed the point, that the walking was really wandering (behavior typical of people with dementia) and that Ms. Q was at risk of getting lost. When this was pointed out to the APS worker, she said that she can only go by evidence that she observes, and that this information was just "hearsay". APS supervisory staff explained that this client needed "preventive" services, not "protective" services, as there is no "imminent" danger and therefore was not appropriate for APS. Her case was closed.

In the months after the case conference, Ms. Q continued to wander and get on busses to Atlantic City. As Ms. Q continued to decline, the neighbor became overwhelmed and became less and less involved. Subsequently, Ms. Q continued on a downward spiral, which was observed by her doctor and by our staff. When things reached a crisis point, two of Heights and Hill's staff made arrangements to walk Ms. Q to the emergency room, where her doctor was waiting to admit her, and she was fast-tracked to a nursing home. Had an Article 81 or guardianship proceeding been initiated, perhaps Ms. Q could have remained at home, with home care and financial management. We'll never know.

You've heard from my colleagues about the demographics. The "graying" of our population is upon us. Just this past Sunday we were hit with the news that by 2050, the numbers of people with Alzheimer's disease will quadruple from 26 million to 106 million worldwide. If we have these kinds of problems now, how will be ready for the large numbers to come? The cases above illustrate some of the problems with our current system for dealing with adults who are alone and at-risk:

- There are bottlenecks throughout the system that slow down service delivery, during which time clients often deteriorate, perhaps unnecessarily. In both the case of Ms. E and Ms. Q, if there had been earlier medical and social intervention, perhaps their stories would not have ended so dramatically.
- APS caseworkers have high caseloads and have to give their attention to the "squeaky wheel" cases, those that involve what we used to call in child welfare "multiproblem families"—situations where there is mental illness, drug abuse and violence – leaving little time to care for the elderly in less dire, but still critically needy circumstances.
- Caseworkers are not adequately trained, as was the case with the worker who felt that Ms. Q was in "great shape". While my experience has been that APS workers are very knowledgeable about entitlements and bureaucratic systems and how they work, they are less skilled at understanding mental illness and dementia, and how this impacts client safety.
- APS does not work effectively with community based agencies that have longstanding relationships with clients to provide clients with the best possible care. Time and time again when we make referrals to APS, we have had experiences where the workers were not able to gain access to the client, sometimes closing the case, instead of trying to work with our staff to arrange appointments. We often know the habits of our clients and would be able to facilitate meetings. Some of this is a "culture change" issue, as in the case of Ms. Q, when the APS worker referred to information given to her by one of our Licensed Social Workers as "hearsay". APS workers need to learn what community based agencies can and can't provide and how we may be able to work

together for the good of the client, not function as adversaries. This is an issue on both sides, since there are years of history here.

I began by talking about my 20-year history struggling with this system. I am more optimistic now than ever before, as I have seen more positive steps taken in the past six months than in the prior 20 years combined. First, Public Advocate Gotbaum needs to be recognized for shedding light on this largely hidden system and its problems, by issuing her comprehensive report. Secondly, Commissioner Doar should be recognized for his willingness to look at these problems, and finally, First Assistant Deputy Commissioner Lin Saberski needs to be given a great deal of credit for participating in an open dialogue with advocates, looking at systemic problems, and working cooperatively toward their solution. I commend her for her openness and her real dedication to making this system more workable. We have begun to take some small steps toward improving APS. I submit a number of additional recommendations for further consideration:

- Place a cap on worker caseloads so that they do not exceed the national recommendation of 25 cases per worker. This would require hiring additional caseworkers, since caseloads currently are much higher.
- Increase the number of training days for new caseworkers and incorporating a greater number of the core competency requirements, as recommended by the National Association of Adult Protective Services Administrators (NAAPSA). Training for APS caseworkers should, at minimum, be comparable in duration and content to caseworker training provided in other states. Also,
    - All APS workers should have training in identifying and dealing with dementia
    - All APS workers should receive training in hoarding as a mental illness.
    - All APS workers should receive training and in-service on working with other community support service systems, particularly the DFTA-funded service network.
- Clients needing guardianship who already have case managers through the DFTA case management network should be fast-tracked through the guardianship process, allowing speedy access to

psychiatric evaluations, and HRA legal services, without having to go through the lengthy process leading up to court proceedings, as was the case with Ms. E, where it took over 7 months.

- APS needs to create stronger relationships and open communication with CBOs in order to help serve clients more effectively. Caseworkers need to work with CBOs that have longstanding relationships with clients and can help APS caseworkers gain an understanding of the client before an APS caseworker conducts an in-home visit, as well as help the worker obtain access to new clients' homes. The involvement of a CBO staff person who knows the client can help APS caseworkers establish a trusting relationship with the client.
- Consideration should be given to creating a separate APS under DFTA to deal with elderly people who are at risk. This would allow staff to be well-versed in issues specific to the aging population such as dementia, elder abuse, long-term care planning and the like.

Also, I'd like to add some thoughts on the subject of hoarding. Hoarding is a complex problem that presents serious risk to both the individual and to the individual's neighbors. In the past ten years or so, the problem of hoarding is increasingly being recognized as a mental illness. There has been good research supporting this and we are seeing increasing numbers of people who are identified as hoarders. Several years ago, I participated as a founding member of the NYC Hoarding Task Force. Since then, I have done a significant amount of training on this issue, throughout the state and the country. These people ultimately wind up getting referred to APS, often as pending evictions. While I don't know statistics, I would venture to guess that there are a large number of "hoarders" as open APS cases. Currently there are treatment models being tested around the country that show some promise in treating what until now has been an intractable problem. We are better at knowing what *doesn't* work than what does. One of the things that we DO know is that the worst thing one can do to address the problem is to go in and involuntarily do a "heavy duty cleaning". Without proper preparation for such drastic action, people often react with such strong feelings of violation that they may even have to be hospitalized.

Unfortunately, this is the only way that APS currently addresses these cases. I submit that the whole process of "heavy duty clean-outs" needs to be looked at and reviewed, with the best interest of the individual in mind.

The timeliness of this hearing is fortuitous. Even as we speak, the Department for the Aging has released a Case Management Concept paper that proposes to regionalize case management services, creating fewer contracts that serve much larger areas. The new RFP's are due out in August and are scheduled to go into effect in January, 2008. Community-based agencies like Heights and Hill will have to face the choice of instantly expanding to serve an area containing six community boards (almost one-third of Brooklyn – the borough with the largest number of elderly) or closing our doors. What happens then to the Ms. E's and the Ms. Q's?

Testimony of Judith Uman, Director of Social Services
Bronx Jewish Community Council
The City Council of New York Committees on Aging and General Welfare
Hearing: Oversight - Reforming Adult Protective Services to Better Serve Vulnerable Clients
June 14, 2007

Thank you for the opportunity to testify at today's hearing. We appreciate the committees focusing on this important matter.
Many of the persons present today are familiar with the Bronx Jewish Community Council and the services it has provided for thirty five years. I will be providing some background information in my written testimony and will not take up precious time in my oral presentation.

About Bronx Jewish Community Council:

The Bronx Jewish Community Council is a community based agency (CBO) first incorporated in 1972 as the Concourse Jewish Community Council, and later called the West Bronx Jewish Community Council. BJCC assumed its current name in 1984 to reflect its role as the primary Jewish sponsored anti-poverty agency of the Bronx. Through its Bronx Jewish Community Services division, BJCC has developed community offices located throughout the borough. Some service sites are located in the offices of the local Jewish community councils; Concourse North Bronx, Co-op City, Parkchester-Unionport, Pelham Parkway and Riverdale. Local area Jewish community councils represent over 100 member bodies including religious, educational, social and fraternal organizations.

A guiding principle of BJCC is to involve local communities in their own need/service determination and oversight of services. Toward that end, BJCC co-sponsors or jointly programs with various neighborhood organizations and institutions. All of BJCC's programs serve Bronx residents regardless of religion, race or creed.

BJCC combines ADVOCACY with SERVICE. Beyond the specific services BJCC provides, staff and board members actively participate in public forums, meetings, hearings, advisory committees and community boards to help shape legislation, regulatory policies and procedures which determine how services to the community are administered. In addition, BJCC staff advocate with governmental and philanthropic agencies on behalf of those who come for help, assistance or advice. As a result of both our mission and function, BJCC is often aware of problems that Bronx residents experience with various community services.

BJCC Interaction with Adult Protective Services

As a community agency we interact with older adults and disabled persons facing many difficulties in their lives. BJCC has an extensive web of services, that are Borough wide, based in the anti poverty movement, and funded primarily with government funds. One contract allows BJCC to serve not only the elderly and

disabled but those less than 60 years of age at neighborhood walk-in sites. Our daily social work practice brings us in touch with homebound and ambulatory, frail and mentally disabled, those threatened by eviction, the hungry and needy, the confused and distraught, the isolated and those suffering from dementia. Our services are limited by contract obligations, social service law, and our role in the spectrum of services available to these most vulnerable individuals. Although each of our offices (9) is supervised by LMSW's there are restrictions as to what services we are able to provide. We are not contracted to provide financial management, legal counseling, or psychiatric services. When our clients need these services we rely on our ability to refer to APS and have that agency do the work that is required to maintain the person safely at home in the community, with adequate food, homecare, medical care and with their bills paid in a timely manner.

Our long term relationship with many of our clients often positions us to help APS staff with their more comprehensive services. Reluctant clients often need their community social worker to be the bridge so that they will accept the services ONLY APS can provide. Our experience is that APS staff does not work collaboratively with BJCC staff or include us in care plans which then makes ***their job more difficult*** and prevents clients from receiving appropriate services. APS rules dictate that after a number of failed attempts to gain access to a client's home, the case is closed. If the APS worker used the longstanding relationship the client has with a CBO to gain access this would not happen. Frequently, once APS accepts a case, the communication between the CBO worker and the APS worker stops. When the CBO worker tries to maintain communications, calls are not returned, voice mail boxes are full and emails go unanswered. Often cases are closed and the referring CBO is not informed. From our agency's perspective these are not isolated incidences but business as usual. Because there is no alternative for many clients but to be referred to the APS system we have witnessed time and again, client's needs not addressed. We have had "paperwork" from an APS worker to their financial management unit lost for months and years as the client receives eviction notices, Con-Ed and telephone turn off notices. Food Stamp applications and Section 8 recertifications don't happen. Frequently, the frail, poor and mentally incompetent are at APS's mercy.

Mr. F. has been known to BJCC for many years. Staff worked with him on entitlements on an as needed basis in accordance with Case Assistance standards of BJCC's contract with DFTA. As of 11/13/06 Mr. F was an accepted APS case because of self neglect issues, non payment of rent and a cluttered and filthy apartment. Numerous emails transpired between the BJCC social work staff and the Deputy Director of Bronx APS. In those emails we pleaded for APS to recognize the severe nature of this client's situation. He was self medicating, there was no food in the house, he had two dogs that he no longer could "walk" he had no homecare and his apartment was in need of heavy duty cleaning. We have case records of our attempts to get the attention of the APS worker, and then communications with the Deputy Director. The case was never given the

immediate attention or priority it warranted. Despite BJCC staff's continuing attempts to assist APS by alerting them to the many issues with Mr. F, the communication failed and the segments of the case that could only be addressed by APS were not performed in a timely manner.

There have been other cases which have not received the attention that would have made a difference in the client' ability to manage and remain home in a safe environment:

- Many clients who are receiving financial management form APS, but none the less receive, eviction notices, Con-Ed turn off, Section 8 termination, and SCRIE "final pending notifications"
- Food stamps and Medicaid not renewed and therefore the client loses the needed entitlement.
- Psychiatrists schedule visits without the benefit of background information about the client that the community social worker could have provided easily, if engaged.
- Living situations with clear health hazards including clutter, rodents, and needed repairs including non functioning toilets are not dealt with in a timely fashion or are ignored.

As a community agency we recognize that there might be a host of reasons that APS falls below our expectations, insufficient funding, lack of staff training, overwhelming demand coupled with individuals in very complicated situations are some. Our testimony today is to suggest that when this committee makes its recommendations of how to repair this system that you recognize the vital role that the community based organization and its staff plays in providing care for New York's most vulnerable. The role of community based organizations as partners with APS should be encouraged and seen as a valuable resource.

Testimony

Submitted by

Rhonda Grand, MSW, LMSW
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on

A Different Inconvenient Truth:

Reforming Adult Protective Services to Better Serve Vulnerable Clients

due to

The Failure of NYC Adult Protective Services to Protect the Unprotected

Presented

at a

Public Hearing

sponsored by

Committee on Aging
and
Committee on General Welfare

of

The Council of the City of New York

on

June 14, 2007

A Different Inconvenient Truth:

Reforming Adult Protective Services to Better Serve Vulnerable Clients

My name is Rhonda Grand and I have been Executive Director of Special Services for Senior Citizens for the past 26 years. We are a not-for-profit, voluntary neighborhood-based agency serving Community District #18 in Brooklyn that includes Bergen Beach, Canarsie, Flatlands, Georgetowne, Mill Basin, and Marine Park. We provide case management, entitlement and benefits assistance, information and referral, transportation, and arrange and coordinate homecare, housekeeping, and meals-on-wheels for more than 436 older adults.

I applaud the City Council Committees on Aging and General Welfare for its proactive position to reform NYC Adult Protective Services (APS) due to its' failure to protect the unprotected. APS is charged by statute to care for adults at-risk; yet, in the absence of APS interventions, the most vulnerable subset, the frail elderly, remain at-risk and susceptible to self-neglect, abuse and exploitation. I have attached case examples for greater understanding.

In the interest of brevity, I list only a few examples of why at-risk elderly continue to fall into the APS abyss of inefficacy and inefficiency:

1. APS attempts to reject clients at Intake and Assessment despite "Presumptive Eligibility;"
2. What APS considers a comprehensive assessment is merely one conducted through a small crack in an apartment door and from that develops a plan of care;
3. APS is non-compliant with mandated timeframes to conduct home assessments and psychiatric evaluations;
4. Once APS obtains meals-on-wheels for at-risk elderly, they neglect further interventions to ensure safety and well-being;
5. Once an at-risk elder refuses service, APS closes the case based upon their "right to self-determination."
6. Regarding "involuntary services," a study by the National Association of APS Administrators concluded, "... the focus is not on serving adults against their will, but rather on assurance that the critical services are not denied because the adult in need lacks capacity to consent to receive essential services".

Although APS Deputy Commissioner Lin Saberski is sincere in reforming APS, I offer the following recommendations:

- Create an APS Advisory Council with oversight responsibilities;
- The locus of services should be contracted to neighborhood-based senior services agencies because of their judicious comprehension of geriatric issues; and,
- Transfer APS to DFTA because the needs of elders at-risk are significantly different from younger adults.

In 2001 and 2005 there were City Council Public Hearings on APS but they produced no reform. Therefore, my question to these Committees, which is a parody of the Verizon TV commercial is, "*what makes you hear me now?*" As the axiom states, "When the student is ready the teacher will appear." Are you ready to invest the effort and funding to reform APS to ensure the unprotected are indeed protected?

In conclusion, APS should have only one motive to reform: that all clients at-risk have the inalienable right to "life, liberty, and the pursuit of happiness".

Thank you.

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ANATOMY OF TWO ELDERLY BROTHERS AT-RISK:

A JOURNEY THROUGH NYC ADULT PROTECTIVE SERVICES

1. CLIENT PROFILE

Mr. A and Mr. M, 74 and 67 years old respectively, are brothers who have always resided together. Currently, they live on the second floor of a two-story walk-up. At Intake, they presented as needing "only meals-on-wheels" to the case manager of a community-based organization. In-home assessment findings revealed a history of hoarding, substandard living conditions, lack of cooking skills, frozen food as the primary source of nutrition and no involved family or formal support systems. In addition, Mr. M historically never seeks routine medical care and Mr. A recently had a partial excision of malignant brain tumor.

Although both present as alert and oriented with no outward sign of functional limitations, Mr. M appears slow in speech and thought. It is unknown whether he may have a developmental disability. He was never employed and has no income or health insurance. He alleges to have $60,000 in savings that may have come from decades of financial support from his brother who was employed. Mr. A acts as primary caregiver, sole financial provider, spokesperson, and head-of-household. Neither brother is forthcoming about their past or present and fiercely guard their privacy, leaving many gaps in information.

Their elderly sister relocated them to their current apartment because their previous one was "infested with insects and rodents," yet, within weeks, according to their sister, it mirrored the "clutter and filth" of their previous one. She describes Mr. A as "hostile and rude to whomever tries to see them" and therefore, neither she nor her daughter "tries any longer" because "they will never change".

2. HOUSING ENVIRONMENT

The initial in-home assessment conducted by a case manager from the community-based organization was the only time the brothers allowed access to their apartment. It clearly demonstrated unhealthy living conditions:

- Every room was cluttered from floor to ceiling with garbage bags, paper, etc., including in the bathtub -- obstructing performance of personal hygiene;
- The clutter made it difficult and unsafe to walk throughout the apartment;
- The clutter also overlapped the stove and oven rendering it unusable;
- There was one bedroom with one bed encased in clutter in which the brothers sleep together;
- A strong, foul smell typical of body and cat odor permeated the apartment; and,
- There was no place to sit.

Among other challenges, a major obstacle is their stalwart refusal to permit access to their apartment, refusal to accept any other services and the infrequency with which they answer their telephone. Given their at-risk situation, the case manager referred the brothers to NYC Adult Protective Services (APS).

3. THEIR JOURNEY THROUGH NYC ADULT PROTECTIVE SERVICES (APS)

1. APS conducted an announced home visit two weeks after referral.

    - *APS regulations require the home visit to be conducted within 72 hours.*

2. APS accepted the case and requested that the community-based organization activate meals-on-wheels (MOW) **only after its' case manager encouraged the APS caseworker to do so.**

3. APS notified the community-based organization in writing that their psychiatrist would conduct an in-home psychiatric evaluation.

    - *APS never conducted the evaluation.*

4. Since the brothers stated they "don't need any help," APS never returned, never provided services of any type and closed the case.

5. APS never notified the community-based organization they closed the case.

6. Upon follow-up by the case manager, APS stated their decision to close the case was based upon a "client's right to self-determination."

    - *Among other APS eligibility criteria, an individual must be unable to perform their activities of daily living and/or demonstrate poor judgment; apparently, these were not considered.*

4. TIMEFRAME AND OUTCOME

All of the above activity took more than one year to unfold. The involvement of APS, and the lack thereof, resulted in no change in the brothers' living environment or situation.

5. COMMUNITY- BASED ORGANIZATION AGAIN REFERS CLIENTS TO APS

1. APS attempted to access entry into the apartment but were unsuccessful.

    - *APS should have pursued an Order to Gain Access based upon case history but it never considered this option.*

2. The case manager from the community-based organization suggested APS arrive the same time as the meal delivery to increase the possibility of gaining access. APS was again unsuccessful in gaining access and conducted their assessment through a small opening outside their apartment door.

    - *APS deemed this an adequate and comprehensive assessment upon which to base decisions and develop "next-steps."*

3. APS took two weeks to return multiple phone calls from the case manager of the community-based organization.

4. APS plans to refer clients for a psychiatric evaluation.

    - *Again, it was never conducted.*

5. The community-based organization received a "Notice of Eligibility" form letter from APS indicating the brothers are **ineligible** for APS services without explanation for their decision.

    - *This is standard operating procedures of APS.*

6. When the case manager from the community-based organization questioned this disposition, the APS Supervisor stated, "this is my decision and if you don't like it you should go to my supervisor." That supervisor later claimed (s)he never made such a statement.

7. The case manager from the community-based organization spoke to several APS supervisors and discovered APS closed the case because the brothers refused heavy-duty cleaning.

    - *Again, APS appears not to have used poor-judgment to determine eligibility.*

8. APS stated, "if a psychiatric evaluation indicated further intervention APS does not have to follow that recommendation."

    - *Practice wisdom reveals that APS is known for doing whatever it wants.*

9. The case manager continued to advocate with the APS caseworker and supervisor but could not reach anyone directly and all voice mailboxes were continually full.

    - *A typical pattern at APS.*

6. TIMEFRAME AND OUTCOME

All of the above activity occurred over three months. The involvement of APS again resulted in no change in the brothers living environment or situation. The timeframe from initial referral until this current disposition is two years.

7. CURRENT STATUS

1. The brothers state their apartment is in the same condition as two years ago when the case manager from the community-based organization gained access.

2. Mr. A recently completed radiation treatment on the remaining portion of his malignant brain tumor.

3. Mr. M still has not sought medical care.

4. Family continue to remain uninvolved because it is too burdensome to do so and according to their sister, "negatively affects my mental health."

5. The case manager from the community-based organization convinced the brothers to allow him/her to visit only if the conversation is conducted through a narrowly opened door.

6. The case manager intends to follow-up with APS post the home-visit.

7. The brothers continue to receive meals-on-wheels because the community-based organization will not terminate delivery despite its' inability to gain access and the failures of Adult Protective Services to provide *protective* services.

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SPECIAL SERVICES *FOR* SENIOR CITIZENS

~ To Ease the Transitions of Aging and Disability with Dignity ~

Rhonda Grand, MSW, LMSW
Executive Director

A DIFFERENT INCONVENIENT TRUTH:

The Failure of NYC Adult Protective Services
to Protect
a Physically and Financially Abused
83-year-old widow with Alzheimer's disease

1. CLIENT PROFILE

Mrs. D is an 83-year-old widow who currently resides alone in a private house that is in considerable disrepair. Mrs. D. was married twice and her only child, a daughter from her first marriage, has been deceased approximately eight years due to cancer. Prior to her daughter's death, her grandson, son-in-law and daughter resided with her. Her second spouse established a life estate for Mrs. D but the stepchildren prefer she relocate thereby selling the house to gain the profit. There is a long history of physical abuse committed by the son-in-law against the client's daughter and son. It is unknown if he is still alive and whether he abused Mrs. D.

Mrs. D.'s medical history consists of the following: a stroke, transient ischemic attacks, glaucoma, osteoporosis, osteoarthritis, thyroid disorder, anxiety, and a recent diagnosis of early stage Alzheimer's disease. The combination of these conditions leaves her with an unsteady gait and visually impaired. She is very thin, petite and weighs less than 120 lbs. Over the past several weeks, she has shown signs and symptoms of hallucinations and delusions. Yet, has extended periods of lucidity, is easily engagable, cooperative, articulate

The grandson continued to reside with Mrs. D after his mother's death when he was age 13. As per Mrs. D., he physically and financially abused her for the past seven years through age 20. At that time, he was forced to vacate due to his violation of multiple Orders of Protection and the intensive involvement of the Elder Abuse Unit at the Brooklyn DA's office and a local community-based organization. Since Mrs. D. worries about his well-being, it is likely she allows him to enter the house.

Until she was able to acknowledge this abuse, she covered her outward signs of physical injury by claiming she had frequent falls. Her only companion is a small dog previously owned by her daughter. Since Mrs. D. is physically incapable of walking the dog, she allows it to use the second floor to void itself. Consequently, that area of the house is layered with dog urine and feces. She occupies the first level of the house.

Mrs. D. has a very healthy income of approximately $3,300 per month but is incapable of financial management. To wit, she is in utility arrears for thousands of dollars, and received multiple warnings of disconnect notices.

She continues to rely upon the staff at the community-based organization as if they were her surrogate family.

Funded under contract with the NYC Department for the Aging
as part of the Older Americans Act and administered by the NYS Office for the Aging

A DIFFERENT INCONVENIENT TRUTH:

The Failure of NYC Adult Protective Services to Protect a Physically an Financially Abused 83-year-old widow with Alzheimer's Disease

2. MRS. D. BECOMES KNOWN TO A COMMUNITY-BASED ORGANIZATION

In March 2004, the JASA LEAP program referred Mrs. D. to a community-based organization for meals-on-wheels. The LEAP program suspected financial abuse by the client's 17-year-old grandson and as such, pursued legal action and provided supportive counseling.

The biopsychosocial in-home assessment conducted by a case manager from the community-based organization determined that Mrs. D. was appropriate for meals-on-wheels and the service was activated forthwith. The case manager maintained ongoing contact with the LEAP program because of the suspected abuse. As stated earlier, Mrs. D. explained various injuries such as stitches above her eye, bruises to her ribs and a fractured knee as all the result of falls. It was mutually agreed that a referral to NYC Adult Protective Services (APS) was warranted.

3. ACTIONS AND CONCLUSIONS BY APS

APS conducted an assessment and concluded that Mrs. D. was mentally intact. They accepted her denial/refusal of abuse and therefore closed the case.

4. ONE YEAR LATER IN 2005

The client continued to both receive meals-on-wheels, deny any episodes of abuse and stated her grandson vacated the house.

5. ANOTHER YEAR LATER IN LATE 2006

Upon a routine reassessment by the case manager, Mrs. D. was wearing a cervical support collar that she explained was needed "because of my arthritis". Given her history, the case manager kept this topic open. Finally, Mrs. D. revealed, "my grandson lives with me and he threw me against the wall and choked me. If I were a little younger, I would have been able to push him off me." With the abuse acknowledged, she further added, "several weeks ago he punched me in the stomach". She quickly added, "But he is also very helpful to me. He takes care of all the bills, shops for me and gets my medication". She further confided, "My grandson needs help. I love him and just want to get him help". The case manager discovered that Mrs. D. had many unpaid utility bills and resultant shut-off notices. Consequently, on November 17, 2006, the case manager made a referral to APS.

6. AT APS, THE LEFT HAND DOESN'T KNOW WHAT THE RIGHT HAND IS DOING

Although the requisite APS home assessment should be conducted within 72 hours of the referral, five days later nothing transpired. The case manager confirmed who the assigned APS caseworker was but that worker reported that the case belonged to another worker. The second caseworker agreed that the APS computer identified him/her as the worker, but stated, it was assigned to a third APS caseworker who was on medical leave. Although the case manager explained the urgency for APS to conduct a home assessment because of the potential physical harm to the client, the APS Supervisor stated the third assigned caseworker would see the client when she returns from his/her medical leave in a few days.

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7. ACT NOW, ADVOCATE WITH APS LATER

The director of the community-based organization spoke with Mrs. D. who repeated the same description of physical abuse she recounted to the case manager. With the client's permission, the director contacted the Elder Abuse Unit at the Brooklyn District Attorney's Office requesting their intervention. They determined the client had an existing Order of Protection against her grandson and once he violated it, he would be arrested. This was particularly fortunate because the Order was pending almost immediate expiration. The social worker at the DA's Office obtained a second Order of Protection to remove the grandson from the house should he violate the Order.

8. ENTER APS

The case manager could not reach the assigned APS caseworker until eleven days post initial referral. In addition, the director spoke with the caseworker to gain his/her immediate cooperation and to remind the caseworker that the failure to act promptly – and within prescribed timeframes -- could be widely publicized in the media similarly to when the Agency for Children's Services has a child who falls through the proverbial cracks. As such, APS conducted the home assessment, collected the unpaid utilities bills, but did not resolve the arrears. Consequently, the client received utility shut-off notices. The director of the community-based organization contacted the APS caseworker, Supervisor and APS Utility Liaison but no one could be reached. In some cases, messages could not be left because voice mailboxes were repeatedly full, and where multiple messages were left, no one responded. Ultimately, the director bypassed APS, contacted all utility companies and secured a "withhold" on all utilities which prevented service termination. APS was subsequently updated to which they finally secured an emergency grant to pay all arrears.

9. ENTER LEAP

The case manager referred Mrs. D. to the LEAP program for supportive counseling because her anxiety escalated and she could not manage her financial affairs. In addition, it appeared that the grandson still had access to the client's bank accounts. Apart from the supportive counseling, this was a duplication of services because APS should have already acted upon these unmet needs.

10. MRS. D. HAS HER DAY IN COURT.... MULTIPLE TIMES

Finally, a date of 2/7/07 was established to obtain an Article 81 (guardianship) petitioned by the Office of Legal Affairs of APS. The case manager, APS caseworker and Mrs. D. all appeared in court. The community-based agency paid for round-trip transportation for Mrs. D., arrived at her house early to assist her in getting ready, organized and provide reassurance. This task and expense was the responsibility of APS but again, APS could not be relied upon. All parties waited in court for several hours before being informed the case was adjourned. For Mrs. D., it was a physical and emotional hardship for her to attend court, travel time was minimally one hour each way. It was unconscionable to require this frail 83-year-old person to be re-victimized by a dysfunctional system designed to protect her from re-victimization. The new court date was 2/20/07 and again the case was adjourned with no prior notification after Mrs. D. sat in court several hours before a court clerk informed all parties it was adjourned. The case was adjourned because the court evaluator was on vacation. Prior to the third scheduled court appearance, the director negotiated with the Brooklyn DA's representative, the APS caseworker, attorney from the Office of Legal Affairs and left messages for the Judge and Court Evaluator to confirm that all parties and documents would be present. All responded except the court evaluator and the judge. The Article 81 was granted, and the client's bank account was frozen to prevent the grandson from abusing it. Although past utility bills were paid, Mrs. D. was again in significant arrears.

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11. CURRENT STATUS

Mrs. D. is amenable to relocating to an Assisted Living Program but this potentiality is too new to be relied upon as a substantive alternative. The court evaluator was appointed temporary guardian to manage her financial and other affairs. Mrs. D. continues to receive meals-on-wheels, is capable of, and remains in frequent contact with the case manager at the community-based organization.

NOTE:

Without the perseverance of the community-based organization and the Brooklyn DA's Office, there is no way to determine what other acts of physical, mental, emotional and financial abuse may have been committed against Mrs. D. given the failure of APS to act, to act without delay and to coordinate all her needs.

Again, it is worthy to repeat, that the intensive involvement of the community-based organization was a duplication of effort, services, time and funding and in so doing, deprived appropriate not-at-risk frail elderly clients and/or their caregivers of attention and services because it had to execute the tasks normally performed by APS. Consequently, those clients appropriate for case management and concrete services may be considered to be assigned to an invisible waiting-list for assessment and services due to the failure of Adult Protective Services to protect the vulnerable population they are mandated to protect.

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FOLLOW-UP ONE MONTH AFTER TEMPORARY GUARDIANSHIP IS GRANTED

1. Client's MD refers client to VNS because of open wounds.
2. VNS RN conducts home visit:

    - VNS arranges CHHA services but the client refused to cooperate four different times;
    - The house is dark, dirty and the odor of animal urine and feces permeates the environment;
    - Client claims she has "no food" so RN refers client to City Meals-on-Wheels since RN does not know that the client has been receiving meals-on-wheels for almost 3 years;
    - Community-based organization (CBO) explains client's recent diagnosis of dementia, emotional status which includes chronic anxiety, history of intervention with APS and Article 81 appointment;

3. CBO refers RN to Court Evaluator;
4. CBO speaks directly with court evaluator who claims to know nothing about services for the elderly only how to manage finances;
5. APS still has not assigned a permanent guardian;
6. Court Evaluator brought the lack of appointment to the Judge's attention who responded with "there is no need to expedite a permanent guardian because the situation is not urgent". (NOTE: client has Alzheimer's, hallucinates, is delusional, has been physically and financially abused).

the mental health association
of new york city, inc.

The Mental Health Association of
MHA Westchester

THE GERIATRIC MENTAL HEALTH ALLIANCE OF NEW YORK

MEETING THE MENTAL HEALTH NEEDS OF ADULT PROTECTIVE SERVICES CLIENTS

Testimony of
Kim Steinhagen, LMSW
Director, Geriatric Mental Health Alliance of New York

At the Oversight Hearing on Reforming Adult Protective Services to Better Serve Vulnerable Clients

The Committee on Aging
Hon. Maria del Carmen Arroyo, Chair

The Committee on General Welfare
Hon. Bill de Blasio, Chair

June 14, 2007

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Dedicated To Improving Geriatric Mental Health Policy

services. As a result many APS clients who could be managed in the community by well-trained workers are sent to nursing homes.

In order to work more effectively with clients who have mental illness, APS needs to:

- lower caseloads,
- provide a general overview of mental illness to all staff,
- develop a corps of staff who specialize in serving clients with severe behavioral and/or mental disorders,
- establish a clinical consultation unit to which protective services workers can turn for help with assessment and planning, and
- cultivate working relationships with mental health providers in the community.

Additional funding will be key to ensuring that these changes take place. Additional funding is also needed to develop more community based mental health services, including housing alternatives to nursing homes.

One final note, a few NYC providers and advocates have already met with APS leadership, who appear to us to be entirely clear about APS's problems working with clients with mental disorders and to be committed to change. They need resources to train staff, to reduce caseloads, and thus, to provide more effective services. We urge the City to provide the necessary funding.

Thank you for the opportunity to testify today. Please feel free to call on us at any time for background information about geriatric mental health.

TESTIMONY

Robert Doar, Commissioner
Human Resources Administration/Department of Social Services

Improving Adult Protective Services
to Better Serve Vulnerable Clients

Joint Meeting of the Aging and General Welfare Committees
New York City Council

June 14, 2007

Good afternoon Chairperson Arroyo and Chairperson de Blasio, and members of the Aging and General Welfare Committees. I am Robert Doar, Commissioner of the Human Resources Administration and am very pleased to be here today to talk with you about our Adult Protective Services (APS) program. Also with me today is Lin Saberski, Deputy Commissioner of APS since 1998.

HRA has over a decade worth of experience in helping families achieve self-sufficiency through personal responsibility. This is an important ethic, but for many elderly and disabled persons, we need to recognize that this is frequently not attainable and that all of our support is needed so that they can safely remain in the community as independently as possible. APS cannot take on this responsibility alone, but we are a critical component of a broad network of service providers that is likely to grow in the future.

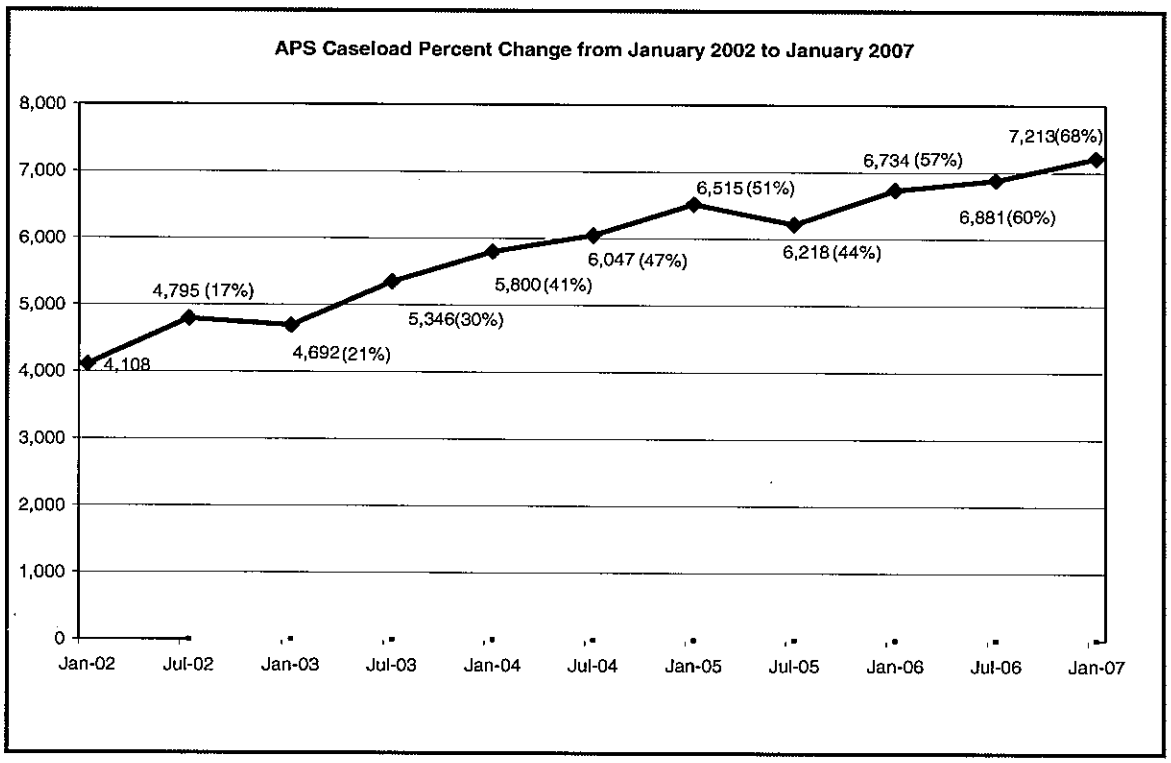
State and Federal Leadership and Support for APS

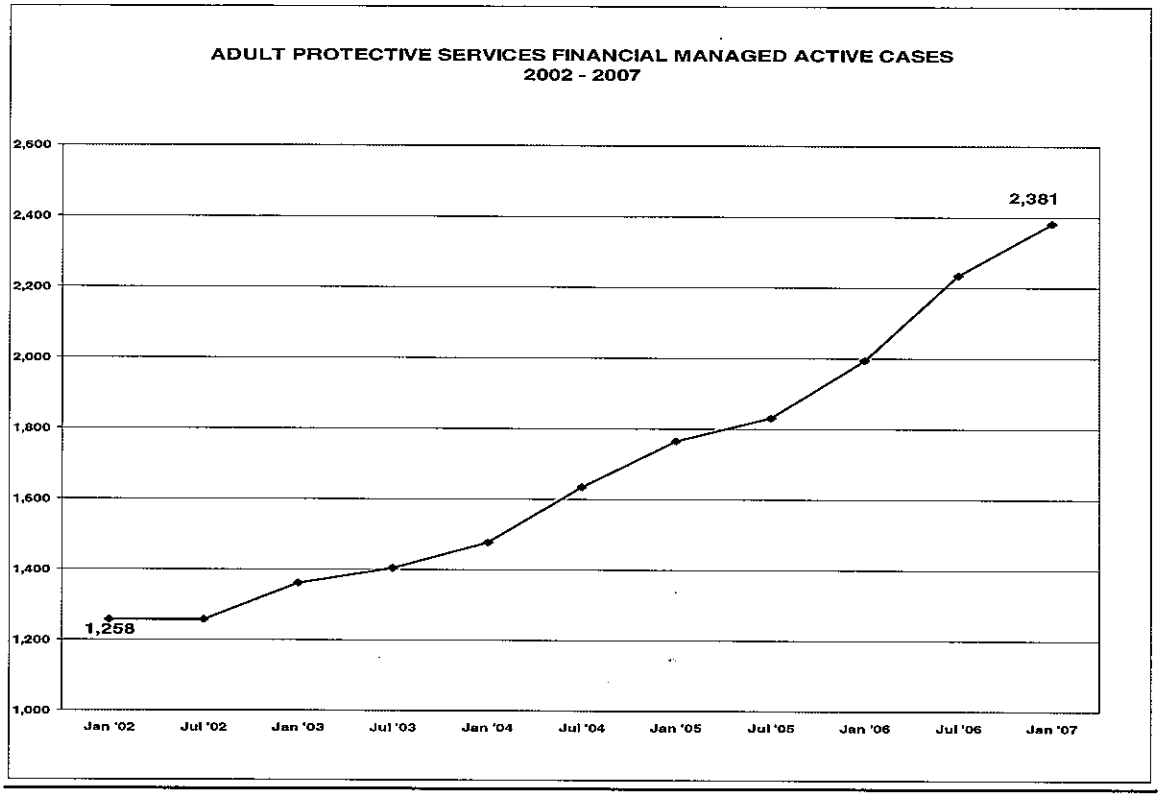
Before I mention some of our initiatives, I think it is important to first recognize that with regard to the State and Federal governments there is presently little directive or financial support for this critical set of services. There is no national strategy on the prevention and prosecution of elder abuse that supports the capacity and training needs of this complex system. At the Federal level, there is a total of $7 million available nationally in the Older Americans Act for Protective Services which is primarily used for media campaigns. The federal funds we use from the Social Services Block Grant compete against the interests of 26 other allowable social services that the State could choose to fund. We support efforts to pass legislation, the Elder Justice Act, that would create such a structure but even with passage by Congress there is no funding to implement the legislation and its admirable goal of creating not only a dedicated funding stream for APS but technical assistance and other support to states as well.

To further compound the lack of a national strategy, although New York State has steadily increased its support of APS through the provision of additional training for staff, State funding does not yet cover all of the training provided for new caseworkers.

Caseload Dynamics

The current Adult Protective Services caseload, including the 900 cases served by contract, is approximately 7,220 individuals. This is an increase of 68% since January 2002. The total budget for Fiscal Year 2008 is $42.4 million, which includes funding for 458 APS staff. APS provides services to adults who need protection from themselves or others due to mental and physical impairments, and have no one to responsibly assist them. A majority of APS clients suffer from mental and physical illnesses, are socially isolated, and live in poverty (although we do serve all income levels). Roughly 40 per cent of APS clients are under 60. These younger clients are especially likely to suffer from severe mental illness, abuse substances and aggressively resist our assistance. Further significant challenges arise from the fact that fifty percent of clients accepted for services are facing eviction when referred.





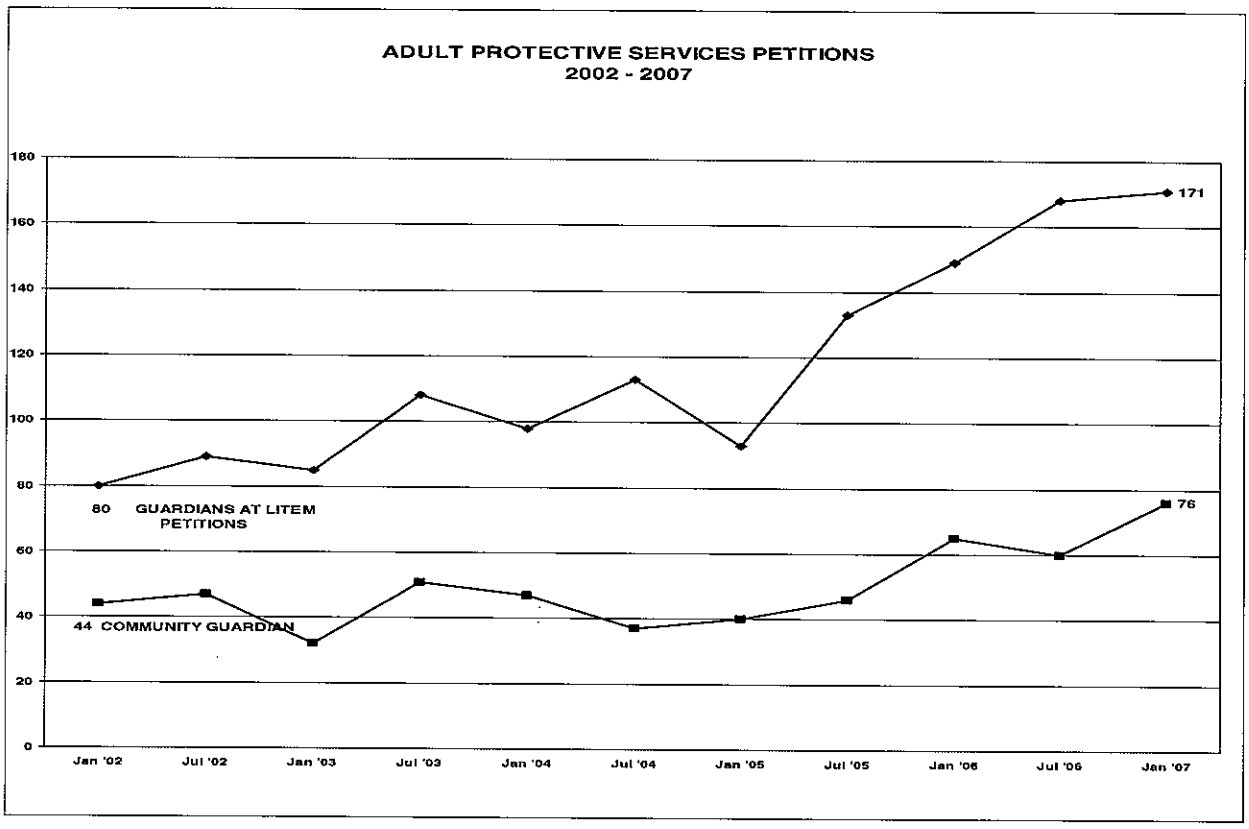
The APS Process

Clients are referred to us through the Central Intake Unit, which is the first level of screening. Referrals are accepted if, based on the intake interview, the client appears to meet the APS eligibility criteria. When Central Intake determines that a client emergency exists, a visit will be made as soon as possible, and no later than 24 hours after the referral. When necessary, calls are routed by Central Intake directly to 911. Non-emergency referrals are visited within 3 working days from the referral. Less than ten percent of APS clients seek our services voluntarily. Family and friends, Housing Court, City Marshals, the New York City Housing Authority, Hospitals, Home Care and Home Health Care agencies, and community-based organizations are the most frequent referrers. When their interventions have reached the limit of the voluntary services they offer, they turn to APS. After intake, clients are visited at home by APS caseworkers, who complete a full assessment of mental, physical, social and environmental risks. To ensure that their information is accurate and complete, they work with the referral source, landlords, neighbors, and family members. In determining eligibility, APS must

weigh a client's ability to protect themselves from harm against their right to self-determination, which means something different for each and every client. These decisions are particularly difficult when referrals include allegations of abuse, neglect or financial exploitation. The allegations are very hard to substantiate because clients so frequently deny them.

Once a client is found eligible, the first step in most cases is to request an evaluation by an HRA Office of Health and Mental Health (OHMHS) psychiatrist to evaluate the extent of the mental and/or physical impairments observed during the assessment. Our mandate in every case is to utilize the least intrusive measures to enable each eligible client to remain safely in the community with the highest level of independence possible. The starting point is always to seek the client's cooperation in pursuing service plan implementation but this can be a lengthy process. Although all APS clients are at risk, in many cases the risk is not acute. Many are in a downward spiral and will need to be persuaded over time to accept our help. Absent client consent, we have only a limited number of options available. We can apply to become the representative payee for a client's Social Security benefits and then pay their monthly expenses. For all other involuntary services, APS works through the Court system. When clients refuse access to our caseworkers, we can petition the Supreme Court for an Order to Gain Access, executed with the help of the police, an agency psychiatrist, and a locksmith. We also work with the Court system in obtaining protection for the many clients facing eviction by petitioning Housing Court for appointment of Guardians ad Litem.

If all other interventions have been unsuccessful, and a client lacks capacity to appreciate the nature of the risks they are facing, APS petitions the Supreme Court for appointment of a Community Guardian. The Community Guardian is then charged with the responsibility to make decisions regarding the client's personal and property interests. APS has made increasing use of Community Guardianship to assist clients lacking capacity who are at risk of eviction. In fact, in 2006, 40% of Community Guardianship cases involved an eviction.



To give you a better sense of the daily job of a caseworker, on a given day, you will find APS staff trying to convince a client whose apartment is filled from floor to ceiling with papers and debris to consent to a heavy duty cleaning; or persuading an elderly client with Alzheimer's disease to open the door so that allegations of neglect can be investigated; or explaining to a developmentally disabled 50 year-old whose lifelong caretaker has just passed away that they don't own their apartment and will have to relocate because they can no longer afford the rent. These are just a very few examples of the people in crisis for whom APS caseworkers attempt to advocate, often facing uncooperative neighbors, dangerous dogs, abandoned buildings, bedbug infestation and threats from clients, and abusers in the process.

A Network of Support

As our program has grown and matured, we have learned through experience that our success in resolving the risks faced by our clients comes only with collaboration. Our Borough Offices meet regularly with The New York City Housing Authority social work

staff to discuss shared clients. Meetings are also held with Department for the Aging service providers and their Elder Abuse contractors. In addition, a written protocol is currently being developed by our two agencies to jointly investigate abuse and neglect allegations. For close to a decade, APS liaisons have been present in Housing Court to assist with APS referrals. We also work closely with the District Attorney's Offices, the police, and the Department of Health and Mental Health Mobile Crisis Teams and intensive case management services. In addition, we regularly hold meetings with community-based organizations. Especially critical are the conversations with hospital social workers to ensure discharge plans are appropriate and safe for APS clients.

Key APS Services and Support

Providing and/or participating in:
- *Relocation assistance*
- *Financial management of social security benefits*
- *Heavy-duty cleaning services*
- *Hospital Discharge Planning*

Referrals to/for:
- *Psychiatric and/or medical examination and ongoing care*
- *DOHMH Intensive Case Management, including Assisted Outpatient Treatment (Kendra's Law)*
- *NYPD and the District Attorney to address allegations of abuse and exploitation*

Assistance in obtaining and/or recertifying:
- *Medicaid and Home Care, including long term managed care programs*
- *Supplemental Security Income (SSI) and Social Security Disability (SSD) benefits*
- *Public assistance benefits*
- *Food stamps*
- *Payment of rental and utility arrears and rental increase exemptions (SCRIE and DRIE)*

Petitioning:
- *Housing Court for Guardians ad Litem to assist with eviction prevention*
- *Supreme Court for Orders of Protection, Orders to Gain Access, and/or Community Guardians to manage financial and domestic affairs*

In looking to the future, there are several key areas that I want to focus on, including making sure we have enough staff to do the job and that they are well-trained, that we maximize resources and become as efficient as possible. Following are some of the key initiatives in these areas.

Staff Training and Support

A necessary first step is to ensure adequate staffing. Fifty-two caseworkers, 32 that are newly created staff positions, will complete their training at the end of this month. We

have also taken steps to ensure that hiring for APS takes place three times annually, followed immediately by training. This will minimize lag time in filling vacancies and enable new workers to become productive as soon as possible. Training has also been re-designed and expanded to thirty days. We have incorporated many of the State's core competencies into our curriculum, and added location-based trainers who will provide extra support to our newest members. Finally, to better support Manhattan staff and clients in the borough that has grown the fastest over the last two years, we are dividing the Manhattan Borough Office into two offices, each with its own Director.

The Preventive Services Program (PSP)

Having the necessary staff on board is only one part of the equation. Maximizing efficiency is another. With State input and approval, we developed a special initiative called the Preventive Service Program (PSP) to care for stable clients. These individuals are visited quarterly by our staff and by a designated contact person from the community during the other months, who is then called by APS for an update. Most also receive financial management and/or home care services. With fewer visits needed, a caseworker can manage a caseload of 55 preventive service clients. Infrequently, when a client becomes unstable, they then are reassigned back to the regular unit. The program started four years ago, and now has close to 600 clients.

Strengthening the Intake Process

Roughly one third of referrals to APS come from the Department of Investigation (DOI), which has oversight of the New York City Marshals. Marshals, through DOI, refer when they are preparing to execute a warrant of eviction and believe, based on information from landlords, that the individual may be eligible for APS services. In December of last year, a pilot to screen referrals from DOI at our Central Intake Unit (CIU) was initiated. This came in response to statistics consistently reflecting that only 10% of DOI referrals were determined eligible after assessment. Unlike other referrals to APS, these had not been screened at CIU previously because the information provided in the referrals is so minimal that screening was not feasible. To support the pilot, the Housing Court has given APS access to their database, which provides significant information about the

legal process facing these clients. The pilot has just been completed and outcome data shows that 52% of DOI referrals to Manhattan are being determined ineligible at intake based on the APS criteria, saving valuable field time and enabling staff resources to focus on eligible clients. This pilot will soon be expanded Citywide.

Use of Liaisons and Operation Improvements

Efficiencies have also been achieved through the use of liaisons for services both inside and outside HRA, to ensure that requests for benefits and services are carefully tracked and promptly addressed. Liaisons are in place for Home Care, Medicaid, Rental Assistance, as well as the District Attorneys' Offices and the Guardians ad Litem. We are also planning to use specialized staff to monitor heavy-duty cleanings and prepare the documents needed to apply for services. These changes will enable caseworkers to spend more time actively assisting clients. Finally, protocols are under development to expedite home care services for APS clients upon hospital discharge, to standardize referrals to APS by home health care agencies so that replacement services can be arranged as soon as possible, and to ensure that hospitals share medical information with APS.

Looking Ahead

APS is constantly seeking to improve service delivery and overall efficiency. And, we have been and will continue to be open to suggestions from others including the Public Advocate, City Council members, and the union. We believe that there is more that could be done to assist us in our efforts and as part of our State legislative agenda we have requested the mandatory reporting of elder abuse and establishment of a State central registry. We are seeking to determine better ways to identify mentally impaired or disabled elderly persons at the beginning of eviction proceedings rather than later in the process and make sure that they know about valuable rental assistance programs that could help avoid eviction. Also, we want to make sure all of our social service workers are safe and have put forward legislation that would make assaulting a social service worker a felony.

In looking to the future, we know that the City's population in general is growing, and the elderly population is expected to increase by almost 50 percent by 2030 as baby boomers age. The APS population overall is particularly affected by the high cost of housing in New York, which adds another dimension to this expected population surge. The lack of a solid framework and supports at the Federal and State levels places the bulk of responsibility for the protection of the APS population on the City. This creates a challenge to develop a model APS system now that will meet the needs of our growing and increasing complex program. This resulting system will need to be a citywide initiative that draws upon and strengthens the present collaborations between HRA, other government agencies and the courts, and our non-profit provider community.

Thank you for your time and I look forward to your questions and guidance regarding this important program.

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COUNCIL OF THE CITY OF NEW YORK
COMMITTEE ON AGING
COUNCILWOMAN MARIA DEL CARMEN ARROYO, CHAIR
COMMITTEE ON GENERAL WELFARE
COUNCILMAN BILL DE BLASIO, CHAIR

TESTIMONY

REFORMING ADULT PROTECTIVE SERVICES TO BETTER HELP VULNERABLE CLIENTS

JUNE 14, 2007

For further information, please contact:

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Good afternoon, my name is Rachel Natelson and I am the Legal Advocate at Council of Senior Centers and Services of New York City (CSCS). First, on behalf of CSCS, its member agencies, and the 300,000 elderly people they serve, we would like to thank Councilmembers Maria del Carmen Arroyo and Bill de Blasio and the Committees on Aging and General Welfare for arranging this hearing. We are also grateful to HRA Commissioner Robert Doar and his staff for their participation, and acknowledge the positive first steps they have recently taken to facilitate reform at APS. More, however, can still be accomplished, and we hope to work together productively to implement a range of much needed changes.

CSCS is the central organization in New York City representing 265 member agencies providing community-based services for over 300,000 older New Yorkers. Services provided through our member agencies include congregate and home-delivered meals, housing, case management, home care, multi-service senior centers, social adult day services, transportation, Naturally Occurring Retirement Communities (NORC's), information and referral, assistance for immigrants, computerized benefits program, educational and cultural activities, mental health programs, health promotion programs, legal services, opportunities for volunteerism, and intergenerational programs.

I appreciate the opportunity to present testimony on protective services for older New Yorkers. In the face of changing demographics, New York has more need than ever for sensitive and efficient services for its most vulnerable citizens. Throughout the State, there are currently over 3.2 million people aged 60 and older, 1.3 million of whom live in New York City. Within this population, the fastest growing segment is the oldest old, aged 85+, which has increased by 18% citywide and 25% throughout the State since the 1990 census.

Overall, elderly New Yorkers experience significantly higher rates of frailty and disability than their counterparts throughout the rest of the country, a trend driven in part by a correlation between poverty and disability. Unsurprisingly, these figures only increase as the population ages; Alzheimer's disease alone claims nearly 50% of people over 85 throughout the country (Alzheimer's Association, *Alzheimer's Disease Fact and Figures 2007*), many of whom live in New York City in order to gain access to social services, while their children move away. With the growth of the number of New York's "oldest old," Adult Protective Services (APS) has become an increasingly vital resource.

As the city agency charged with protecting such vulnerable groups as the frail elderly, the mentally incapacitated, and the abused and exploited, APS is accountable for the welfare of New Yorkers most in need of social services and least likely to obtain them without significant and intensive support. The agency is mandated by statute to protect the interests of individuals who, "because of mental or physical impairments, are unable to manage their own resources, carry out the activities of daily living, or protect themselves from physical abuse, sexual abuse, emotional abuse, active, passive or self neglect, financial exploitation or other hazardous situations without assistance from others, and have no one available who is willing and able to assist them responsibly" (NY Social Services Law Article 9-B).

To fulfill this charge, APS is responsible for investigating reports of those in need of protection, mobilizing appropriate medical and psychiatric services, arranging for guardianship when necessary, and providing other services necessary to remove clients from environments hazardous to their health and well-being. In order to meet the needs of its clients most effectively, APS is required to "plan with other public, private and voluntary agencies... for the purpose of assuring maximum local understanding,

coordination and cooperative action in the provision of appropriate services." While such services may be arranged with or without the voluntary consent of a client, the agency is required by law to tailor its services to the needs of each individual in order to offer the least restrictive alternative to full self-determination.

Given this mandate to integrate a variety of professional disciplines and maximize the resources of a range of city agencies, good management and comprehensive training are indispensable to the agency's successful operation. For many years, however, these qualities have been notably deficient at APS. Service providers at local community-based organizations consistently recount failures to respond to reports within the statutorily mandated time period of 72 hours, as well as failures to accept appropriate referrals and to provide necessary services to existing clients.

Reluctant to accept referrals at the outset, APS tends to dispose prematurely of the cases it does handle instead of reassessing care plans with the passage of time. Care planning, meanwhile, is geared to short-term crisis resolution, addressing episodes in isolation rather than the broader factors that give rise to specific crises. Caseworkers, who tend to be inadequately trained and poorly paid, contend with staggering caseloads and minimal technical support, a reality wholly inconsistent with the demands presented by their uniquely vulnerable clients.

Amid these shortcomings, the most troubling deficiency is undoubtedly the agency's response to guardianship needs. Despite routine efforts to avoid engaging the assistance of APS unless absolutely necessary, providers feel obligated to turn to the agency in cases of extreme mental impairment, so as to gain access to necessary legal and psychiatric resources. Operating under the mantle of the City's Human Resources Administration (HRA), which oversees a vast and complicated network of social service

agencies, APS lacks its own in-house psychiatric unit, and must instead refer clients to the HRA psychiatric staff for mental health evaluations. HRA psychiatrists, however, often lack expertise in geriatric matters, a qualification vital to recognizing signs of dementia and other older adult afflictions. Such conditions, therefore, regularly go undetected due to isolated and cursory examinations incompatible with identifying symptoms of a disease that manifests itself episodically and often without immediately visible symptoms.

Additionally, guardianship proceedings tend to demand the professional capacity to navigate relevant channels of the court system, an undertaking for which few community-based organizations are equipped. While APS ultimately assigns guardianship cases to the HRA legal office, such cases routinely wind their way through the APS bureaucracy for months prior to reaching the appropriate staff, during which time clients desperately in need of services remain unattended. On past occasions, the agency has also cited concerns about the legal consequences of interfering with client autonomy, a baseless apprehension given its statutory immunity from civil liability in this respect. As a result of these obstacles, many clients have already deteriorated by the time APS commences guardianship proceedings. Ultimately, this delay results in unnecessary institutionalization, a fate that might be averted with the timely provision of such services as money management, home care, and Alzheimer's Association "Safe Return" enrollment.

While CSCS remains deeply concerned about these institutional deficiencies, we have lately seen welcome improvements at APS. To begin, we are grateful for the mayor's allocation of $1,075,000 to fund new caseworkers, and look forward to additional funding in the future. As stated previously, we have also been heartened to

learn from Commissioner Doar and his staff of a number of anticipated reforms at the agency, including the hiring of 32 additional caseworkers, the reinstatement of borough-wide meetings to connect APS caseworkers with community-based providers, and the establishment of an advisory council drawn from the medical, legal and social service sectors. APS also hopes to hire special "documentation workers" to process benefits paperwork in order to lighten caseworker responsibilities, as well as to station "abuse specialists" in each borough. Finally, the agency plans to expand location-based caseworker training, revamp its automated system to track services with greater ease, and retain a consultant to reassess service delivery and update job descriptions and qualifications.

These changes, which accompany the arrival of new management personnel, could well infuse a long stagnant culture with a fresh perspective, and CSCS is much appreciative of the Commissioner and his staff's recent efforts to reach out to advocates and community-based providers. Additional reforms, however, might still be undertaken to complement and strengthen those immediately contemplated by the agency.

In light of APS' mandate to coordinate services with other public and private agencies, our chief recommendation is for the agency to strengthen its alliances with local community-based organizations. By turning to other city agencies and private social service providers, APS could enhance its training resources immensely; such organizations offer invaluable expertise in matters ranging from eviction assistance to benefits enrollment to the sensitive treatment of hoarding and dementia. Already, providers throughout the five boroughs have expressed an eagerness to partner with APS to train its caseworkers, ideally with the goal of allowing for greater specialization to meet specific client needs regarding housing, finances, and mental health.

In optimizing the resources of local nonprofits, APS might learn from the Administration for Children's Services (ACS), an agency currently addressing similar institutional challenges. Like ACS, the office of Adult Protective Services could benefit from contracting out more of its services to community-based organizations with distinct areas of expertise and additional staff capacity. The agency should also consider adopting such ACS policies as separating investigation from case work functions, reassessing job qualifications and salaries, and defraying relevant professional education costs for staff members. Additionally, the Committees on General Welfare and Aging should expand efforts to impose caps on ACS caseload sizes in order to ensure an equally timely and comprehensive response to APS reports.

Another area ripe for reform is guardianship services. While the decision to interfere with the autonomy of another adult is never an easy or comfortable one, NY guardianship law explicitly authorizes such a step if "the appointment is necessary to provide for... food, clothing, shelter, health care, or safety," a set of needs that APS often fails to fulfill. Since the main deficiency in APS' existing approach to guardianship is its bureaucratic obstacles to timely intervention, we recommend that the agency establish a separate "fast-track" for these proceedings. Given the immediacy of the risks that confront incapacitated adults, APS must accelerate the process by which it affords legal protection against financial exploitation, housing insecurity, and other potential threats to health and well-being.

In addition to expediting its process for commencing guardianship proceedings, the agency might also advocate for the expansion of the NY court system's community guardianship program for those who have already been deemed incapacitated. As the court system's 2005 Birnbaum Commission Report on Fiduciary Appointments

(http://www.nycourts.gov/reports/fiduciary-2005.pdf) illustrated, the appointment system has generated ongoing concern over episodes of fraud and abuse among individual guardians. While community guardianship programs currently receive around a third of all appointments, we are strongly in favor of broadening this model, and agree with the Commission's recommendation that the court system explore the viability of outsourcing the court examiner function to appropriate nonprofits as well. Unlike individuals, nonprofits can employ a range of professionals—from social workers to accountants and attorneys—to work as a team in order to provide more comprehensive service. To this end, existing community guardians like JASA, Selfhelp, and the NY Foundation for Senior Citizens can serve as models for programs that replicate their strengths.

On a related note, we also feel obligated to register our concerns over DFTA's intention to replace neighborhood-based case management catchments with broader service areas, a decision that threatens to have an especially pernicious effect on APS clients, given the value of intensive personalized services in early intervention for at-risk seniors.

Thank you once again for allowing me to testify today. We look forward to working with you to make protective services available to the City's most vulnerable older adults.

RECOMMENDATIONS FOR IMPROVING PROTECTIVE SERVICES FOR VULNERABLE ADULTS

- **Community Relationships:** Strengthen relationships with other city agencies as well as with nonprofit community-based organizations, as mandated by statute.
- **Staff Training:** Improve caseworker training to allow for greater specialization in such areas of client need as financial management, housing, and mental health.
- **Expedited Guardianship:** Establish an expedited process for guardianship case review, and advocate for an expansion of the community guardianship program.
- **Psychiatric Resources:** Improve agency psychiatric services by building expertise in geriatric conditions.
- **ACS Lessons Learned:** Adopt such reforms as capping caseload sizes, improving technology, raising salaries, and redesigning job qualifications.
- **Right to Counsel:** Support legislation to be proposed by the Citywide Task Force on Housing Court to establish a right to housing court counsel for seniors, who disproportionately turn to APS for support with eviction proceedings.