

Re: Call for Non-governmental Organization Input to the UN Open-ended Working Group on Ageing

At the August 2012 meeting, there was presented an overview of access to justice strengths and weaknesses with regard to older persons in the United States. For the most part, for older persons that involves how well they function within the United States court system.

Global Action on Aging ("GAA") believes that it would be worthwhile to explore in greater detail the special problems that exist for the aging within the court system and possible solutions. GAA will hopefully be undertaking an in depth analysis of the issue. GAA is setting out an outline of issues as GAA presently sees them.

- I. Older Person as Victim
 - A. Subject of Neglect
 1. Special Nursing Home Problems
 2. Issues of Guardianships and How to Monitor
 - B. Subject of Sexual Assaults
 - C. Subject of Homicide
 - D. Subject of Financial Exploitation
 1. Older people tend to have more assets
 2. Older people may be more lonely and seek out companionship more often
 3. Older people may be reluctant to cause trouble for abuser who is often a family member
- II. Older Person as Perpetrator
 - A. Growing Prison Population
 1. Costs of special healthcare
 - B. Failure of Judges to Recognize issues such as Dementia
- III. Older Person in the Courtroom
 - A. Getting to the Court
 - B. Stamina during Court Proceedings
 - C. Fear of Court
 1. Concern of Guardian Appointment
 2. Concern of Assignment to Nursing Home
 - D. Problems for Jury Service
 - E. Effect of Age on Judge's Behavior and Performance
 - F. Problems as Witness
 1. Hesitations
 2. Hearing
 3. Jury Prejudice re older person reliability
 - G. Incapacity or Death During Proceeding
 - H. Reluctance to Cooperate with Prosecutor
 1. Effectiveness of Defense of Consent
- IV. Possible Solutions and Remedies (Some of Which are Being Utilized in Certain States)
 - A. Expedited Trials
 1. Special Elder Protection Courts
 - B. Priority on Court Docket
 - C. Enhanced Penalties for Certain Perpetrators
 - D. No Drop Policies (Prosecutor Can Proceed Even If Victim Wants to Withdraw)
 - E. Loosening Rules of Evidence
 1. Hearsay Rule
 2. Continuing Case Even After Victim's Death Based On Written Records
 - F. Guardianship Monitoring

- G. Handling Some Matters Outside of Prison System
- H. Early Recognition By Judge of Older Person's Special Problems