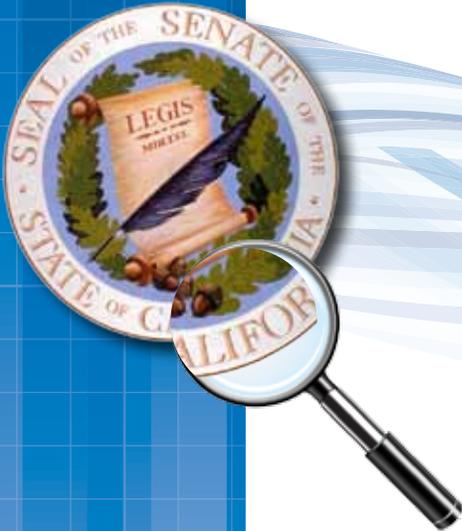


Caregiver Roulette:

California Fails to Screen those who Care for the Elderly at Home

This report was prepared for the California Senate Rules Committee at the request of the Senate Health Committee

April 21, 2011



Prepared by John Hill

California Senate Office of
Oversight and Outcomes

John Adkisson
John Hill
Dorothy Korber
Nancy Vogel

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Executive Summary

In December 2010, S.K. placed an advertisement on Bay Area Craigslist offering her services as a caregiver – everything from shopping and driving to hands-on personal care. She wrote that she was experienced in health care, and willing to spend nights at the client’s home.

Those potential clients would no doubt have been interested in another fact about S.K. – she once described herself to a sheriff’s investigator as a “kleptomaniac” with “uncontrollable urges.” She had just been caught stealing \$2,400 of merchandise from a garden supply store, which led to a felony burglary conviction and 90 days in jail. She has also been convicted of petty theft, driving under the influence and vandalizing the car of an ex-boyfriend.

S.K.’s Craigslist ad is an illustration of the perils faced by Californians searching for caregivers to work in their homes, the Senate Office of Oversight and Outcomes has found.

Unlike most other states, California does not regulate the burgeoning in-home care industry, leaving consumers prey to individuals who fail to disclose their criminal backgrounds and dependent on agencies whose “background checks” don’t come close to digging up unsavory pasts. A 2008 law intended to help individuals hiring caregivers on their own has languished as the result of confusion over who’s supposed to spell out how it will work.

The state does license home health agencies, which provide skilled nursing at home in conjunction with a plan prescribed by a doctor. But agencies that place caregivers who help with activities of daily living - such as bathing, toileting, dressing, walking and eating - do not require anything more than a business license. Individuals who offer these services in newspaper classified ads or Internet services such as Craigslist are similarly free of state oversight.

A growing population of elderly and disabled adults is looking for alternatives to long-term care such as nursing homes, assisted living and board-and-cares. Businesses and individuals have stepped forward to meet

this need, offering help with activities of daily living short of medical care. There are an estimated 1,200 in-home care agencies in California and an unknown number of individuals, such as S.K., looking for caregiver jobs on their own.

The lack of regulation has resulted in an industry compared by more than one insider to the Wild West. Our report confirms that the current landscape is creating risk for consumers that could be alleviated by legislation, ranging from full-scale licensing to narrower measures to help clients obtain and understand criminal background checks and other records.

Among our findings:

- More than a quarter of caregivers accused or convicted of crimes that we identified from news accounts had committed previous offenses, underscoring the potential value of screening. Given our office's limited means of checking criminal backgrounds, this figure is almost certainly an underestimate. One caregiver we investigated had been convicted of embezzling \$43,000 from a church and, a few years later, stealing \$18,675 from her bed-ridden mother. She nonetheless found a job as a live-in caregiver for an 82-year-old woman. She moved into the woman's bedroom and started charging her rent, used the woman's accounts to buy herself cars and other goods, and tried to put the house up for sale before she was arrested. In most of the cases we looked at, recent crimes were a good predictor of a caregiver's transgressions.
- Many in-home care agencies claim to do "background checks," but this can range from a thorough screening required for certification by a state association to a \$19.95 instant Internet check that experts say yields almost nothing of value. Agencies have been sued for shoddy background checks that resulted in felonious caregivers being placed with vulnerable seniors and committing new crimes. Other lawsuits have revealed instances of agencies finding out about a caregiver's criminal background, but placing the caregiver in someone's home anyway. Even the many agencies that do more thorough checking can miss convictions older than seven years old because of a California law limiting the reach of consumer background reports.
- Few Californians who hire caregivers on their own know that they have a legal right to request a statewide criminal background check through the Department of Justice. In the first three months of this year, no consumers asked for the fingerprint-based screening. Meanwhile, a 2008 law that was meant to help

consumers get and understand criminal background checks is being ignored. The law envisioned that the help would be provided by public authorities that train and screen workers in the state's In-Home Supportive Services program. But not a single public authority of the 26 that we contacted said they could assist. The bill's backers looked to the Department of Social Services to write regulations or give other guidance. The department says the law never intended it to take on that role.

- A survey we conducted of 30 states, covering 83 percent of the U.S. population, found that California is part of a small minority that does not regulate in-home care agencies. Only five other states in our survey leave the industry unregulated. The 24 other states that do regulate in-home care agencies employ a wide variety of approaches, with some laws encompassing businesses that refer caregivers to clients as well as those that employ them. Three states either require anyone representing herself as a caregiver to work for an agency where they are subject to background screening, or submit to a criminal background check as an independent caregiver. Napa County recently passed an ordinance requiring all caregivers, whether working for an agency or independently, to apply for a permit that includes a criminal background check. Other counties are considering similar measures.

Two bills now before the Legislature would regulate in-home care agencies for the first time. Because the bills were introduced after we embarked on this report and will be vetted during the legislative process, we do not analyze them. Our report does make several recommendations, however, including some that deal with the part of the industry that would remain unregulated even if the current bills become law. Among the options are carving out an exception to a state law that prevents consumer reporting agencies from disclosing convictions older than seven years, funding a public education campaign to let consumers know how to get and interpret a statewide criminal background check, and legislation to create a family care protection registry that would allow clients to find caregivers who have voluntarily undergone screening.

Rosalie Gonsolin, whose mother lost \$30,000 to a caregiver with an extensive criminal history, wonders why the in-home care industry is not subject to the same oversight as day care centers or long-term care facilities such as nursing homes.

“There just needs to be regulation in place,” Gonsolin said. “Why, if someone wants to stay in their own home, shouldn't they have the same guidelines?”

Background

The home care industry is growing fast, driven by the desire of many aging Californians to remain in their own homes rather than moving into assisted living or other types of long-term care facilities.

Because the industry is unregulated in California, no one knows its exact size. In 2009, the California Association for Health Services at Home, which represents in-home care agencies, searched a web-based business directory to identify firms whose names suggested that they offered in-home care, and followed up with phone calls. CAHSAH estimated that there were 1,200 such agencies statewide, with annual revenues of \$1.2 billion.

The industry is likely to see explosive growth as a burgeoning senior population looks for alternatives to institutional care. The percentage of seniors in need of ongoing help with the tasks of daily living is expected to double by the year 2025, according to Lori Post, Associate Professor of Emergency Medicine at the Yale School of Medicine.

This new world comes with unprecedented perils. Two recent national studies found that about one in ten people over the age of 60 had experienced some form of abuse in the previous year. Those who seek help from a caregiver are by definition unusually susceptible to abuse.

Post's research has shown that those who apply to work in long-term care are three times more likely than the general population to have a criminal record. Caregivers in institutional settings such as skilled nursing facilities are increasingly subject to criminal background screening. Recently, the state started screening all providers in the government-run In-Home Supportive Services program. As a result of such measures, Post said, it's likely that those with criminal backgrounds are turning to unregulated home care for employment.

"We're putting them into areas with absolutely the most vulnerable population, with no oversight," she said.

Few studies have focused on how much elder abuse is perpetrated by paid caregivers. Anecdotally, several California prosecutors told the oversight

office that private caregiver abuse has become rampant. A database of such cases that our office compiled from news accounts revealed that theft – sometimes on a massive scale – was the most common type. These cases can be devastating. Elders don't have time to recoup their losses. For many, it amounts to a permanent financial setback.

“This is a real problem,” said Paul Greenwood, head of elder abuse prosecutions for the San Diego District Attorney's Office.

Attempts to regulate or help consumers have failed

California, unlike most other states, has chosen not to regulate agencies that place caregivers who help with daily activities such as bathing, toileting, dressing, walking and eating. Assembly Bill 853 in 2007 would have required agencies to be licensed by the Department of Social Services and individual caregivers to undergo criminal background checks. The estimated cost of the bill was \$12 million, which would have been charged to the agencies through annual licensing and renewal fees. The bill died in committee.

Senate Bill 692, also introduced in 2007, was intended to allow individuals hiring a private caregiver to obtain a criminal background check at their own expense. The bill became law, but for reasons discussed in detail later in this report, has never been put into effect. Currently, the Legislature is considering two measures – Senate Bill 411 and Assembly Bill 899 – that would require home care agencies to be licensed and subject caregivers who work for agencies to criminal background checks. The two bills contain many similar provisions – such as training and a requirement for agencies to carry workers' compensation insurance – but also some important differences. Our report was undertaken before the introduction of those bills, and does not attempt to analyze them since they will undergo scrutiny as part of the legislative process.

To get a sense of the magnitude of the problem, and the need for legislative action, our office used news accounts to compile a database of caregivers who committed crimes, and determined how many of these caregivers had previous criminal records. We examined the backgrounds of caregivers who placed ads on Craigslist. We surveyed other states about their regulation of home care agencies. We canvassed In-Home Supportive Services Public Authorities about their implementation of a bill meant to allow private individuals to check the criminal backgrounds of prospective caregivers. This report also relies on a review of lawsuits against agencies alleged to have placed criminal caregivers in homes, and an ordinance in Napa County that requires all in-home caregivers to be licensed and screened.

Some caregivers offering their services on Craigslist have extensive criminal backgrounds

Even a limited oversight office review of current ads on Craigslist found caregivers who had criminal backgrounds that likely would be of concern to those who hired them, including commercial burglary, narcotics trafficking and prostitution.

Many elderly or disabled clients and their families seek to hire caregivers directly, sidestepping agencies in favor of lower rates. Caregivers try to connect with those potential employers by placing ads in newspapers, Internet services such as Craigslist, or magazines targeting seniors. In other cases, caregivers and those in need of help may find out about each other through informal networks – friends, family, religious institutions or senior centers.

“They’re finding them through advertising and word of mouth,” said Greenwood, the San Diego elder abuse prosecutor.

Without criminal background checks, these consumers may unwittingly open their homes and finances to those who have shown a willingness to exploit or harm others.

Darlin Miller said it never occurred to her to do a background check of Helen Pursel, a grandmotherly woman who answered Miller’s newspaper ad seeking a caregiver for her father, who was succumbing to dementia. Pursel stole \$20,000 from Miller’s father before she was caught and jailed for six months. Miller later found out that Pursel had been to prison twice.

“I didn’t know that a regular person could do (a criminal background check),” she told the oversight office. “If I didn’t know that, I’m sure there are a lot of other people who don’t.”

Mary Jane Scanlon, a 70-year-old woman who had been disabled much of her life, found a live-in caregiver named Diane Warrick through a

Craigslist ad. When she hired Warrick, Scanlon apparently was unaware of her criminal history. In 1997, Warrick tried to take a drug counselor hostage at Napa State Hospital, and shot at sheriff's deputies. She was found not guilty by reason of insanity, and released from Patton State Hospital in 2002. Before that, she had been convicted of robbery in Colorado. In March, a Contra Costa County jury found Warrick guilty of second-degree murder in the stabbing death of Scanlon.

The oversight office examined current advertisements on Craigslist to find out if individuals with criminal records were offering their services as caregivers. Because caregivers generally do not list their full names in ads, we relied on telephone numbers to determine identities. We did not draw statistical conclusions from our survey. Many names were too common to do criminal history checks. In other cases, criminal background searches were inconclusive, or we could not connect the phone number to a name.

Even with these limitations, the investigation found five cases in which the individual who placed the ad could be identified as someone with a criminal background. We identify the caregivers by only their initials because, despite their histories, their attempts to find employment as caregivers do not violate current laws.

One was S.K. In December, S.K. posted an ad in Bay Area Craigslist offering to work as a caregiver, including personal care, shopping, driving and housecleaning. She said that she was experienced in health care and would be willing to spend nights at the client's home.

In 2004, S.K. described herself to a Mendocino County sheriff's detective as a "kleptomaniac" with "uncontrollable urges." The detective had just caught her stealing merchandise valued at more than \$2,400 from a garden supply store in Fort Bragg. S.K. pled guilty to felony burglary and was sentenced to 90 days jail.

It was not her first run-in with the law. Two years earlier, S.K. had been caught shoplifting from two clothing stores, earning her two years' probation. Eight years before that, she'd been convicted of drunken driving in Sacramento after a CHP officer observed her car weaving on a wet highway.

Shortly after the garden supply store arrest, S.K. got in trouble again for vandalizing the car of a former boyfriend, including breaking off his windshield wipers and scrawling epithets on the windows.

S.K. stated that she had experience in health care. Records confirm that she was licensed as a respiratory therapist in 1993. But because of her criminal convictions, her license was revoked in 2005.

In another case we examined, K.K. offered in an Orange County Craigslist ad to work as a private caregiver, touting her “terrific” references and Christian values. She mentions that she’s already working three days a week as a caregiver for a man in Laguna Beach, but is available for the rest of the week, including 24-hour shifts.

The telephone number that K.K. includes in her ad is also the number of a massage service advertised on the Internet. Last October, K.K. pled guilty to a misdemeanor prostitution charge after an undercover police officer responded to the massage ad and reported that K.K. agreed to have sex for money at her home in Garden Grove. The investigator wrote in his report that as K.K. offered him a condom, “I could hear a young child crying in the other room.” K.K. “said she had two teenage daughters and watched her grandson.” Because of the presence of children, she was initially charged with child endangerment, but prosecutors agreed to dismiss the charge as part of the plea agreement. She was sentenced to 10 days in jail and three years of probation.

A month earlier, K.K. had pled guilty to petty theft from a supermarket.

In 2005, she pled guilty to running an illegal childcare operation at the same Garden Grove house where she was later found to be working as a prostitute. K.K. had been licensed to run a family child care center but gave up her license after a spate of problems, including lack of supervision of the children and failing to get criminal background clearances. A year later, state investigators found that she was caring for five children. Police were called in because of her “negative behavior” towards the investigators.

J.M. states in her Inland Empire Craigslist ad that she is seeking a position as a live-in caregiver. She writes that she’s quiet, clean, and enjoys spending time with elderly people, listening to their memories. Her experience includes caring for a quadriplegic, a liver transplant patient and a person with dementia. She offers to furnish references.

In 2008, members of the Riverside Police Department Narcotics Unit went to J.M.’s house after receiving a tip that she was selling methamphetamine. J.M. told the police that she was a user, not a dealer. She admitted that she had some methamphetamine in the house, hidden under a pillow in her bedroom. She pled guilty to felony drug possession and got three years’ probation as long as she completed a drug treatment program.

At the time of that arrest, J.M. already had a long acquaintanceship with methamphetamine. In 1989, she was convicted of possessing the drug with the intent to sell it after police raided her home in Fullerton. In addition to 20.7 grams of methamphetamine, police found a scale, baggies, a ledger and a client list. She was also convicted of possessing nunchakus, a martial arts weapon that is illegal in California. J.M. was sentenced to 60 days in jail and three years of probation.

J.M didn't make it through probation. In 1990, after submitting 12 dirty drug tests, police raided her house again and found methamphetamine and paraphernalia consistent with an intent to sell the drugs. The court sentenced her to 16 months in prison.

A.P. offers her services as a caregiver on Inland Empire Craigslist for people with disabilities or those unable to cope with daily activities. She writes that she can help with hygiene, feeding, dressing, bathing and driving. She offers to work 24-hour shifts.

A.P. has run into legal trouble in the care of her own child, according to court records. In June, 2009, a Riverside County sheriff's deputies responded to a call from the 6-year-old's father, who reported that the child had been abused. The boy told the deputy that his mother had spanked him repeatedly with a wooden spoon. The deputy observed a golf-ball size purple and green bruise on the boy's left thigh.

A.P. was charged with inflicting cruel and inhuman corporal punishment on a child and child endangerment. She later pled to a lesser charge of disturbing the peace.

On that same day, she pled guilty to driving under the influence after being caught behind the wheel with a blood alcohol level of 0.22 percent, more than twice the legal limit. As part of a plea deal, A.P. was sentenced to 20 days in jail and required to complete parenting classes, as well as complying with all orders and plans in a Child Protective Services case. Our office was unable to review that case because it is considered confidential.

In her San Diego Craigslist ad, C.W. touts 17 years of experience as a caregiver. She offers to help with personal care such as bathing, medications, driving and shopping. She writes that she's happy to pass any type of background check.

C.W. can be confident in that last assertion, but only because California law limits commercial credit and background checking to seven years. Before that, C. W. has an extensive criminal background, including

two separate prison terms totaling five years. In 1986, she pled guilty to receiving stolen property. In a letter to the judge, she admitted to a drug problem. Two years later, she was convicted of petty theft with a prior conviction. After numerous probation violations, a judge in 1991 sentenced her to three years in prison, citing her numerous crimes “of increasing seriousness.” In 1994, she was charged with transporting cocaine and heroin. She pled guilty to one count of possession, and was sentenced to another two years in state prison.

A significant number of caregivers who get into trouble have prior criminal records

In addition to our review of Craigslist ads, we did an exhaustive search of California newspapers over the past seven years to find accounts of caregivers accused or convicted of crimes. In more than a quarter of the cases we found, criminal caregivers had committed earlier crimes, underscoring the potential value of criminal background checks.

Our search identified 64 private, in-home caregivers who got into legal trouble in the past seven years as a result of a transgression on the job. In 17 of these cases – 27 percent of the total – we were able to determine that the caregiver had previously been convicted of a crime. We didn't count infractions such as driving offenses, including driving under the influence.

Our figure is almost certainly an underestimate. The oversight office does not have access to data available to law enforcement. Instead, we relied on searches of Superior Court records, the commercial database LexisNexis and information gleaned from the news articles themselves.

In 13 of the 17 cases in which the offender had a prior record, the old crimes mirrored the new charges. Caregivers who had previously committed a property crime such as burglary, for instance, stole from clients. Property offenses were the most common type of crime, both for the earlier offenses and the caregiver case. In four instances, the defendant's earlier conviction was for stealing from an elderly or disabled client. These caregivers had been caught victimizing the vulnerable, and then went on to do it again.

Most of these cases went far beyond missing jewelry. Losses added up to tens or even hundreds of thousands of dollars. Caregiver Gina Trevino was sentenced by a San Diego County judge to eight years in prison after she and her husband admitting stealing the home of their elderly clients by getting them to sign over the deed, according to the San Diego Union-

Tribune. Trevino had previously served prison time for cruelty to a child, receiving stolen property and forging checks, the paper reported.

Not all the caretakers engaged in property crimes. One man with a history of battery, for instance, was convicted of assaulting his infirm client and throwing her dog against a piece of furniture. In another case, a caregiver with a history of drug use was convicted of killing her elderly charge with an overdose of painkillers while she was under the influence of prescription medications.

Researchers debate whether a prior criminal history is a good predictor of a caregivers' propensity to take advantage of a client. Alan Blumstein, a criminologist from Carnegie Mellon University, has found evidence that the longer an individual goes without committing a crime, the lower the risk.

And those without criminal histories may pose a risk of their own. Some suggest that low-paid workers in private homes where they have access to checkbooks, credit cards, jewelry and cash may succumb to temptation, committing crimes of opportunity inconsistent with previous behavior.

Others, such as Post, the Yale emergency medicine professor, suspect that for some types of crime, there is a correlation between a past record and the likelihood of committing crimes as a caregiver. A drunken driving arrest at the age of 17 may have little bearing on future criminal behavior, for instance, while violence and to a lesser extent property crimes predict transgressions as a caregiver.

The debate is more than academic. If there is weak correlation between past behavior and conduct as a caregiver, there's little need for criminal background screening. If the opposite is true, policymakers should push for more stringent criminal checks.

Our examination involved too small a sample to answer this question definitively. But it shows that a significant percentage of caregiver crimes could have been prevented by criminal background checks.

Caregivers repeat past behavior

One such case involved a caregiver named Cindi Dee Powell. In 1998, she was convicted of stealing \$43,000 from the church where she was working as a bookkeeper, according to Barrie Pink, an Orange County deputy district attorney. She didn't do any jail time for that offense. But in 2006, she was convicted of theft from an elder adult and sentenced to 180 days for stealing \$18,675 from her bed-ridden mother, Pink said.

Within two months of being released, Powell responded to an ad in the Orange County Register placed by a woman seeking a live-in caregiver for her 82-year-old mother, Constance Wakefield. The mother and daughter were impressed by Powell's charming manner and assured by the cross she wore to the interview, and hired her. After the daughter returned to her home and three children in South Africa, Powell took over Wakefield's finances. She prevented Wakefield from opening her own mail. She moved into the master bedroom, and started charging her client rent. She bought a car with the payments deducted from Wakefield's account. She took out a credit card, listing herself as Wakefield's daughter, and then a home equity line of credit backed by the elderly woman's home. Powell got Wakefield to sign over a Toyota pick-up truck, which she sold, and then used Wakefield's accounts to buy another car. A year after she'd moved in, Powell put up Wakefield's Huntington Beach house for sale. With her finances in disarray, Wakefield eventually lost her home of 47 years to foreclosure.

A tip led police to question Powell, who was later convicted and sentenced to four years in prison.

Darlin Miller tells a similar story about Helen Pursel, the caregiver she hired to move in with her father, Barney Massman of Danville, who was suffering from dementia. Pursel responded to a classified ad Miller took out in the local newspaper. The two met at a restaurant, where Pursel showed her what appeared to be a current registered nurse license and supplied her with five references of people she had worked for as a caregiver.

"She just passed with flying colors," Miller recalled. "She was like someone's grandmother."

Soon, however, Miller started getting disquieting reports from her father, who said that Pursel refused to cook for him and once left him lying on the floor under a dining room table much of the night when he got up from bed and tripped. But Miller wasn't sure how much was true and how much could be attributed to her father's worsening dementia.

Then Miller, who lives in Stockton, came to Danville one day to reconcile her father's checkbook and discovered that some checks were missing. Her father told her that Pursel had been taking him to the bank and forcing him to withdraw money for her. Miller said she dismissed the caregiver on the spot. Later, when her father's next bank statement arrived, she discovered that \$20,000 was missing and filed a police report.

It was only then that she learned that Pursel had an extensive criminal record. Pursel's crimes date at least to 1981, and include convictions for forgery, grand theft and falsely claiming to be a registered nurse. Miller said she was told by Contra Costa authorities that some of these crimes involved elderly victims Pursel was supposed to be caring for, and that she had been to prison twice.

The judge sentenced Pursel to 365 days in jail and ordered her to pay back the money. Miller said her father got one monthly payment of \$50, "and then she quit." Pursel was also ordered not to work as a caregiver. Miller is skeptical that anyone is keeping track.

"How are you going to stop her?" Miller said. "I feel sorry for anyone who picks her."

An in-home care agency did pick Daisy Lee Joubert to care for Ileen and Norman Jonas, despite Joubert's earlier conviction for embezzlement. In her job at a skilled nursing facility in Palm Springs, Joubert had stolen the last paychecks of terminated employees, as well as the refund checks from trust accounts of residents who had died or moved into other facilities. The total added up to more than \$13,000, according to a police report.

The agency nonetheless placed Joubert in the home of the Jonases to help Norman while Ileen had surgery for a brain tumor. Ileen suffered complications from the surgery, and soon, Joubert became their live-in caregiver, according to their daughters, Kathleen Jonas and Kellie Ikenberry. Joubert quit the agency and went to work for the Jonases directly.

The Jonases came to rely on Joubert despite her repeated absences at night when she was supposed to be with them. One time, a woman who didn't know the Jonases called police to report that she had seen the caregiver slapping Norman Jonas in a discount store parking lot. But when police showed up at their house, the Jonases denied that anything had happened, Ikenberry said.

"My parents were convinced they would die without Daisy," Ikenberry said. "It's very easy to ingratiate yourself into older people's lives."

Joubert had taken a week off to get dental work done when Ileen Jonas noticed that some jewelry was missing. Police interviewed caregivers who had been filling in, but soon focused on Joubert because of her criminal record. It turned out Joubert had been pawning Ileen Jonas's jewelry for some time. She'd been stealing in other ways, such as signing over checks from Ileen Jonas' retirement account to herself. The family estimates

the total loss at close to \$100,000. Joubert pled guilty to eight counts of caretaker embezzlement and was sentenced to 180 days in jail.

Among the other cases examined by the oversight office:

- Well-known La Jolla cookbook author Jeanne Jones hired Carla Carrillo to care for her elderly mother, unaware of Carrillo's long rap sheet and history of drug addiction. Carrillo did jail time in 1995 for two separate crimes – petty theft with a prior and forgery at a Bank of America. In 1996, she was convicted of grand theft from a Bullock's department store. After two new burglaries in 1998 and 1999, she was sent to prison for a term of three years and four months. The court declared Carrillo to be an addict. Several years later, Jones hired Carrillo to care for her 91-year-old mother. Jewelry went missing, and eventually, Carrillo and her boyfriend were charged with stealing jewelry worth about \$63,000 and selling it to retailers. That case is still pending.
- Kenneth Lee Morton ran up a string of domestic abuse, drug and drunken driving charges before running into trouble as a caregiver. In 2004, he pled guilty and did jail time for battering his then-girlfriend. The court ordered him to get domestic violence counseling. But by 2005, he was back in court again, accused of domestic battery of a different woman. He did another month-long stint in the county jail, and returned on probation violations. Morton met Kathleen Clara Soswa when she hired him to paint her house. He rented a room from her and became her caregiver and, according to Soswa, her fiancé. In late 2007, he was accused of elder abuse for twisting Soswa's arm and throwing her 9-pound Papillon "Papi" against a piece of furniture. He was sentenced to 180 days in jail. In early 2009, while still on probation for several matters, he died. In addition to her troubles with Morton, Soswa told the oversight office that she has been victimized by a series of caregivers who stole from her.
- Janet Marie Montero was convicted of petty theft in San Bernardino County in 2004. In March, 2008, she was convicted of shoplifting from a Wal-Mart in Palm Desert and did three days in jail. Several months later, back in San Bernardino, she racked up a conviction for petty theft with a prior. Then, in 2010, she was accused of stealing \$13,000 in jewelry from 69-year-old Edith Goetz in Desert Hot Springs. She was sentenced to 180 days in jail.

Many in-home caregiver agencies claim to do background checks, but the quality varies and legal roadblocks can prevent thorough screening

In the absence of a state requirement to perform criminal background checks on caregivers, many agencies claim to do them anyway to assure clients that they are minimizing risk.

But a review of lawsuits against agencies and news accounts of caregiver crimes shows tremendous variability in what passes for a background check. Agencies have been sued for doing cursory checks that gave consumers a false sense of security.

“They know what to say to families that are desperate to get care for their aged parents,” said Rosalie Gonsolin, whose mother’s caregiver stole \$30,000.

Other agencies have been taken to court for ignoring the criminal backgrounds they uncovered and placing caregivers in private homes anyway.

Even agencies intent on doing thorough screenings can find themselves hamstrung by a state law limiting how far back consumer reporting businesses can search for criminal convictions. While the federal law on credit and background checks allows any criminal conviction to be reported to an employer, California companies can only go back seven years. There is no exception in California law for in-home care businesses that place caregivers in private homes with vulnerable adults.

The thoroughness of the criminal background check was the central issue in a lawsuit brought by a 92-year-old Contra Costa County woman against Home Care Assistance, Inc., the company that placed a felon in her home.

Rose Michael's family became suspicious when they discovered that the caregiver, Wessa Tanupo, had been taking her on long car trips without their permission and charging the gas to their mother's credit card. After the agency removed Tanupo, the family discovered that she had been writing checks on their mother's bank account and making other unauthorized charges to her credit cards. The total loss added up to \$30,000.

A detective investigating the case remarked to Gonsolin, Rose Michael's daughter, "This person was placed in your mother's home? She has an extensive criminal history." The rap sheet came as a surprise to the family, Gonsolin said, because HCA had assured them that Tanupo's criminal check had come back clean. In fact, she had been sentenced to three years in prison for selling crack cocaine in 1993. As a result of parole violations, she had been incarcerated as recently as 2003 and released from parole in 2004, three years before being placed in Rose Michael's house.

In her lawsuit, Rose Michael alleged that HCA misled her by claiming it did a "thorough" background check. HCA used an Internet service called "Criminal SuperSearch" offered by Intellicorps, according to the lawsuit. The search does not include court records from Santa Clara County, where Tanupo was prosecuted, or from the California Department of Corrections. The only California records in the database were from a sex offender registry, the suit alleges.

The parties settled out of court for an undisclosed sum.

In a similar case in Fresno County, a franchisee of one of the most successful in-home care businesses in the U.S. is accused of inadequately screening a caregiver who ended up killing her client.

Visiting Angels, based in Virginia, franchises in-home care agencies in California and across the nation. A franchisee in Fresno County placed Kelly Jones in the home of Patricia Stovall. Jones was convicted of manslaughter after Stovall, who was 85, died of an overdose of painkillers. Jones appeared disoriented around the time of her client's death and tested positive for high levels of the anti-anxiety medication Xanax, according to press accounts at the time.

Stovall's family sued Visiting Angels. The suit alleges that caregiver Jones, who was sentenced to three years in prison, had two previous drug convictions that should have been discovered by a criminal background check before she was placed in a household where she would have access to prescription drugs.

The Visiting Angels franchisee checked only Fresno County records, attorney Eric Oren said. That search was inadequate, because one of Jones' convictions was out-of-state and the other in federal court, Oren said.

"It really didn't cover very much, so it wasn't a very good background check..." he said. "The bottom line is that she had a history of drug abuse and was placed in a situation where she had access to drugs."

Visiting Angels maintains that the Fresno franchisee did not follow its guidelines, Oren said. The franchisee, meanwhile, claims that Jones was an independent contractor. The case is scheduled to go to trial in May.

In another incident involving Visiting Angels, a Long Beach franchisee placed Kenya Mitchell, a convicted felon, in the home of an elderly couple to take care of the 80-year-old husband. Mitchell proceeded to steal the couple's credit card and run up a \$5,500 bill. She was sentenced to three years in prison.

The local Visiting Angels branch explained to the Press-Telegram in Long Beach that the criminal background company hired by the previous owner had done an incomplete data search. Somehow, that search missed three theft convictions in the previous five years in Los Angeles County – including one that occurred a month before Mitchell applied for the Visiting Angels job. The new franchisee told the newspaper she changed the procedure so that it included a check at the county courthouse.

Marin Community Healthcare hired Maria Quierrez after her criminal record came back clean. But the caregiver had given the agency a false name and social security number, according to Douglas Van Vlear, an attorney for the company, now known as Acclaim Homecare. She also falsely claimed to be a certified nurse assistant, which requires its own stringent background check, Van Vlear said.

In fact, Quierrez's record was not clean – she did 30 days in jail after she and a male caretaker ripped off their elderly charge in Solano County in 2003, the oversight office discovered in a review of criminal records. Sometime after being hired by Marin Community Healthcare, she made a separate arrangement to care for an elderly woman in Terra Linda. In 2007, she was arrested again and charged with stealing \$9,000 from her 84-year-old client. Quierrez was sentenced to six months in jail.

"As it exists now, the ability to access the applicant's "rap sheet" varies from nonexistent to difficult and expensive," Randy de Leon, Acclaim's managing director, wrote in a statement to the oversight office.

Not all criminal background checks are created equal

Experts in criminal background checking say that doing the job right requires laborious and time-consuming research from a variety of sources. On-line databases are woefully incomplete, they say. In an effective criminal record search, researchers must figure out where a person lived and visit the courthouses in those locations.

In San Francisco, for example, a runner sent to check criminal records must first search seven sets of books for misdemeanors, said Lynn Peterson, President of PFC Information Services, Inc. an Oakland public records research firm that specializes in caregiver background checks. If there's a match, the runner has to stand in line to submit a request to have the file pulled, and then go back the next day to look at it. Felonies are located in a different room and require a similar time-consuming procedure.

"It's incredibly labor intensive and low-tech," Peterson said, "not what you'd expect when you see TV programs."

The association that represents in-home care agencies runs a certification program that requires agencies to hire consumer reporting companies to do traces of social security numbers, searches in counties and federal districts where the applicant has lived, and checks of commercial criminal databases. Alternately, the agency can search California Department of Justice and FBI databases. In-home care agencies are authorized by California law to consult these government databases, which would allow them to avoid the pitfalls of instant Internet searches and the painstaking job of county-by-county courthouse checks.

But it's unknown whether a majority of agencies follow the procedures required for certification by the California Association for Health Services At Home. Only about 19 percent of in-home care agencies in California have been certified. While many of the 81 percent who are not certified claim to do "background checks," that can mean anything from the thorough vetting required by the association to a \$19.95 instant Internet search that those in the industry say is almost worthless.

"It's a generic term that doesn't mean anything," said Lester Rosen, an attorney and President of Employment Screening Resources in Novato who helped found the first nationwide association of background screeners.

"Not every background check is created equal," said Denise Collins, chief executive officer of Aunt Ann's Agency, an in-home elder care and home staffing business in Daly City. "You get what you pay for."

On-line databases, in particular, are full of holes and run the risk of creating a false sense of security for agencies and their clients, experts say. While many offer a search of nationwide criminal records, Peterson said, there really is no such thing available to the general public.

Many on-line databases include only people who have been sent to prison - the most hardened criminals - or those on sex offender registries, she said. Lesser crimes that would be of interest to clients and agencies, such as burglary or theft, don't appear. Any on-line search would not turn up data from jurisdictions such as San Francisco that don't have publically available electronic indexes. For those that do, information often is not current.

"Those databases are worse than no check at all, because you think you did a background check and you didn't," said Glenn Hammer, founder and President of A Matter of Fact, a background screening firm in Colfax. In an industry like in-home care with low margins and high turnover, however, it can be tempting to go for the cheaper alternative.

"A lot of companies do (cheap Internet searches) because they will get back a clear piece of paper and think they're off the hook," Peterson said.

California law limits the reach of background checks

Even those that do pay investigative consumer reporting agencies to do county courthouses searches can miss convictions as the result of a California law that is far more restrictive than federal law.

The federal Fair Credit Reporting Act allows consumer reporting agencies to reveal criminal convictions to their clients, regardless of when the crime occurred. It also allows arrests that didn't result in a conviction to be reported for seven years. California's law, the Consumer Credit Reporting Agencies Act, allows convictions to be reported only within seven years of the person being released from incarceration. Arrests that don't result in conviction cannot be reported at all. In addition, employers are barred by state labor law from asking applicants about arrests that didn't result in conviction or using that information in employment decisions. The labor law includes an exception that allows health facilities to consider sex offenses and serious drug crimes.

The California law was intended to keep people from being permanently stigmatized for youthful indiscretions. But its limitations when applied to the in-home care industry are evident in the San Diego case mentioned above, in which a couple was convicted of stealing the home of their elderly clients. The local Visiting Angels franchise placed Gina Trevino

in the home of Pat and Dorothy Torano despite her extensive criminal background. Shortly after Trevino went to work for the Toranos, she left Visiting Angels and worked for the couple directly. The Visiting Angels franchisee told The San Diego Union Tribune that the company had ordered a criminal background check that went back seven years, the limit under California law. The check missed Trevino's criminal history because the offenses occurred more than ten years earlier. Trevino had done prison time for cruelty to a child, receiving stolen property and forging checks.

Some agencies find criminal raps, but place the caregiver in a vulnerable person's home anyway.

The Monterey County District Attorney sued Central Coast Senior Services in 2007, alleging that the company had made deceptive marketing claims about conducting criminal background checks and drug tests. The advertising created the false perception that the company did not hire caregivers with criminal records, the lawsuit alleged. In fact, it had hired eight, including four felons, Deputy District Attorney John Hubanks said.

The owner claimed that there was no law prohibiting the company from hiring individuals with criminal pasts, Hubanks said. But the District Attorney relied on unfair competition law, arguing that the company's advertising implied that it did checks to keep criminals from being placed in clients' homes.

The company eventually settled. While not admitting wrongdoing, it agreed to an injunction and court monitoring of its advertising, Hubanks said. It sent letters to all of its clients warning them to check their belongings, and paid civil penalties of \$225,000.

Santa Clara County settled a similar case against an in-home care agency in 2010. The case came to the attention of the district attorney when a caregiver with a history of thefts was prosecuted for stealing from a client with dementia. Afterwards, the district attorney sued Homewatch Caregivers of Santa Clara Valley, alleging that the agency had failed to disclose to the client the caregiver's criminal history despite advertising that it screened its employees to protect customers.

The case was complicated by the fact that the agency was a franchisee of a corporation in Colorado, Deputy District Attorney S. Michael Lee said. Eventually, the franchiser put pressure on the franchisee to settle. The company agreed to inform clients of any criminal histories it turned up, including felonies and serious misdemeanors. It also agreed to start using

competent and well-qualified background services, and paid \$10,000 in civil penalties and fees. But the district attorney's office was unable to recommend a particular background screening company, given the huge variability of quality in the industry.

"You can tell it's all over the place," Lee said.

Private individuals hiring caregivers on their own face many obstacles

Californians who hire caregivers on their own have the legal right to check criminal histories through the state Department of Justice. But few people know about this option. The Department of Justice received no requests from private parties in the first three months of 2011, and only a handful in previous years. In addition, a law meant to help consumers navigate this process is being ignored.

California Welfare and Institutions Code Section 15660 allows private individuals who are thinking of hiring an in-home caregiver to request the statewide Department of Justice screening, which goes back 10 years. The person must first get a form from the Department of Justice, and then ask the potential employee to take the form to one of dozens of Live Scan technology vendors for fingerprinting. The results are sent to the employer within 30 days. The cost is \$32. The law also mandates that if the caregiver commits a new reportable offense, the employer will get a notification – the so-called “rap back” process.

Few people use this service. Since the beginning of 2006, only 179 private individuals who wanted to screen a caregiver have made a Department of Justice request, according to Julie Basco, Chief of the Bureau of Criminal Information and Analysis. The numbers have dwindled in recent years. In 2007, 71 individuals asked for a Live Scan of caregivers. In 2010, the number fell to 22. As of March 31, 2011, there have been no requests, Basco told the oversight office.

The Department of Justice records, like other criminal databases, are in a constant state of update and revision. The department relies on counties to forward information, and that doesn't always happen, especially with misdemeanors. Some crimes are not included in the Department of Justice reports. Neither are arrests that have been adjudicated without a conviction.

The report itself can be confusing to the uninitiated.

“It’s probably foreign to most people,” Basco said. “It’s an excerpt from a rap sheet. It’s something that someone is really going to have to sit down and absorb.”

A legislative fix falls short

With that obstacle in mind, the Legislature in 2008 passed Senate Bill 692. The bill amended Welfare and Institutions Code to make it clear that private employers of in-home caregivers could request Department of Justice checks. It also said that public authorities in the state’s In-Home Supportive Services Program – which recruit, screen and train IHSS workers – could help private employers of in-home caregivers navigate the criminal background process. Senate Bill 692 was backed by the California Senior Legislature, which saw it as a top priority for protecting vulnerable seniors.

A survey by the oversight office revealed that very few if any IHSS public authorities offer that kind of help. We called 26 of the 56 IHSS public authorities, asking the person who answered the phone whether the public authority could help a private consumer check out a potential caregiver. All 26 said they could not.

Several suggested that private clients could go through a Live Scan vendor to do their own Department of Justice check. But none offered to help with the process. Some did not even recommend that option.

“We actually don’t do background checks,” said a woman who answered the phone at the San Diego public authority. “Well, we do, but only for providers in our agency...I wouldn’t even know who to refer you to.”

The answer in Sonoma County was similar: “I just don’t know how that

| Individual requests received by the Department of Justice for criminal background checks of caregivers | |
|---|----|
| 2006 | 46 |
| 2007 | 71 |
| 2008 | 26 |
| 2009 | 14 |
| 2010 | 22 |

happens.” At the Ventura County IHSS Authority: “I don’t see how you could...I don’t know how to help you with that.” And in Los Angeles: “We can’t assist with a background check.”

One reason the law has been ineffective is that the bill was amended to be permissive – IHSS public authorities may help consumers navigate the background screening process, but are not required to. The change was made after public authorities said they were worried about cost and the potential for liability.

There has also been confusion about whether the Department of Social Services would write regulations or send out a directive to all IHSS public authorities explaining how to put the law into effect. Ken DeVore, who at the time was Capitol Director for Senator Roy Ashburn, author of SB 692, said that the expectation was that Social Services would write regulations or issue instructions. Others involved in the bill have also said they expected Social Services to take a lead role.

But the law does not call for that, said Patti Huston, Deputy Director for Legislation for the Department of Social Services. The language in SB 692 that appears to call for regulations was actually copied and pasted from Senate Bill 868, which would have prohibited IHSS providers from being charged for background checks if certain conditions were met, she said. The two bills, signed within a few months of each other, amended the same section of law. So the language of SB 868, which was signed earlier, carried over into the new bill. The sharing of language made it appear to some that regulations would be written regarding SB 692.

Social Services’ main concern about SB 692 was that public authorities be careful not to spend state General Fund money on background checks for private individuals. Doing so would run afoul of Medicaid rules. Monitoring the public authorities would have required Social Services to dedicate staff, Huston said, but the cost was never authorized. In the meantime, public authorities have not sought direction from the department about how to implement the law, she said.

Even if regulations were not required, public authorities still would need clear direction from the state on how to help private employers of caregivers, said Karen Keeslar, Executive Director of the California Association of Public Authorities. The bill is vague, she said. The language could mean that public authorities would merely instruct consumers how to do a background check on their own. Or it could involve the public authority requesting the check on behalf of a consumer and interpreting the results for them.

The latter interpretation would raise its own questions, Keeslar said, because there are strict legal limits on what public authorities can share from a Criminal Offender Report Information. Would the authorities be able to share the whole rap sheet, or just tell the consumer that the criminal history would prevent the caregiver from being included on an IHSS registry?

The law has done nothing to help private consumers screen their caregivers. Even if it had been put into effect, its reach would be limited if consumers didn't know about it, said Erwin Fromm, a member of the California Senior Legislature.

"The key factor is letting people know they can do this," he said.

California is one of the few states that does not regulate in-home care agencies

A survey by our office of 30 states, accounting for 83 percent of the U.S. population, found 24 states that regulate home care agencies and six, including California, that do not.

New Jersey is one of the states that have chosen to regulate. Officials there saw the law as an important step to protecting the safety of consumers.

“It’s not like at a facility, where there are multiple levels of staff,” said Sherl Brand, President of the Home Care Association of New Jersey, which backed the law. “When you’re in someone’s home, it becomes a one-on-one situation. There’s no one really watching that.”

Our survey results were consistent with others that have found that most states regulate in-home care agencies, including criminal background checks for caregivers.

The survey found three states – Oklahoma, New Jersey and Washington – whose laws do not permit caregivers to work independent of an agency or require those working on their own to submit to a criminal background check. Officials in those states acknowledged, however, that it is difficult to oversee independent contractors, such as neighbors or those who advertise on Craigslist or in newspapers.

A new ordinance in Napa County nonetheless attempts to do just that. All in-home caregivers must be certified, which includes being screened for criminal history. Napa officials have said that they would prefer the state perform these functions. The Legislature is considering two regulation bills but, unlike Napa’s ordinance, they do not attempt to regulate independent workers who find caregiving jobs on their own.

The results of our survey of other states were similar to those from a survey done last year by the California Association of Health Services at

Home. CAHSAH did not get responses from 14 states that did provide information in our survey, but the association received answers from five states we were not able to reach. When those five states are added to our data, a total of 29 states regulate in-home care agencies, compared to six that do not. The combined surveys account for 89 percent of the U.S. population.

Besides California, the five states we found that do not regulate in-home care agencies are Arizona, Iowa, Michigan, Missouri and South Carolina (which is considering a regulation bill in the current legislative session).

In Arizona, the association that represents in-home care agencies would like the industry to be regulated, said Mary Wiley, assistant director of the Division of Licensing Services for the state Department of Health Services. The state has been confronted with the quandary of how to define an in-home caregiver. Does it include housekeepers in the homes of elderly or dependent adults, for instance, or workers who deliver groceries?

Some state regulations go beyond licensing agencies

New Jersey is one of the three states in our survey that go beyond agencies to regulate individuals who provide home care. The law applies to anyone who delivers hands-on personal care to people who are over 60 or disabled. Personal care is defined as dressing, grooming, bathing and the like. It does not include companion services, said Brand, president of the state's home care association.

Once home health aides have been certified in New Jersey, they are barred from working independently and must go through an agency. If a caregiver held out the state certification while offering to work independently of an agency, the state would take action, Brand said. But it would be very difficult for the state to police every uncertified individual who offers to work as a caregiver.

“Can we stop Mrs. Jones from hiring whoever she wants?” Brand asked. “No.”

In Oklahoma, anyone holding themselves out as providing home care – anything more than a sitter service – must work for a licensed agency and undergo a criminal background check.

If the state finds out about individuals working on their own without licensing, it sends them letters reminding them that they must comply with the law, said Tom Welin, Chief of Medical Facilities for the Oklahoma Department of Health.

| States that license in-home care agencies (24) | States that do not license in-home care agencies (6) | Did not determine (20) |
|---|---|-------------------------------|
| Colorado | Arizona | Alabama |
| Delaware | California | Alaska |
| Florida | Michigan | Arkansas |
| Georgia | Missouri | Connecticut |
| Hawaii | South Carolina (currently considering bill) | Idaho |
| Illinois | Iowa | Kansas |
| Indiana | | Kentucky |
| Louisiana | | Minnesota |
| Maine | | Mississippi |
| Maryland | | Montana |
| Massachusetts | | Nebraska |
| Nevada | | New Hampshire |
| New Jersey | | New Mexico |
| New York | | North Dakota |
| North Carolina | | South Dakota |
| Ohio | | Tennessee |
| Oklahoma | | Vermont |
| Oregon | | West Virginia |
| Pennsylvania | | Wisconsin |
| Rhode Island | | Wyoming |
| Texas | | |
| Utah | | |
| Virginia | | |
| Washington | | |

“That’s not to say there aren’t a slew of people out there who are not doing it,” he said.

Illinois chose not to include independent caregivers when it regulated in-home care agencies, said Rebecca Friedman Zuber, a health care regulations consultant who is well-versed in the state’s caregiver law. Despite legitimate concerns about those caregivers, the state wanted to avoid promising the public it could regulate them when it lacked the resources to do so.

“It’s very hard to find all the independent contractors,” she said. And it’s not going to get any easier. That part of the industry “is only going to grow,” Friedman Zuber said, “because that’s where the demographics are going.”

Our survey found many other variations in states’ approaches to regulating in-home care. One of the most important is whether state law applies to registries or clearinghouses that say they merely connect caregivers to clients, without employing them. Virginia and Texas, for instance, do not regulate these operations, while Pennsylvania and Maryland do.

Maine’s law prohibits those who have been disciplined as certified nurse assistants to work for in-home care agencies. Missouri doesn’t regulate in-home care agencies, but it has set up a family care safety registry that allows consumers to go on-line to find out if an applicant is on the list. Getting on the registry requires a criminal background check.

California counties pursue their own fixes

In California, Napa County decided not to wait for the possibility of a statewide law. It approved an ordinance that requires all caregivers, including individuals who don’t work for agencies, to get a permit. The ordinance also covers relatives of the client who are providing care for compensation or consideration. Applicants must submit paperwork to the Napa-Solano Area Agency on Aging, which contracts with a private background screener to do criminal and other checks. Caregivers who don’t make it through the screening can still work for one client, as long as that client has been informed about any criminal history and signed a waiver.

Napa County is not fully enforcing the law until July 1 to give officials time to publicize it. They plan to distribute pamphlets and posters at

places where potential clients and caregivers will see them, including senior centers, hair salons, service clubs, the Meals on Wheels program, pharmacies, grocery shopping bags and doctor's offices.

Santa Barbara's Area Agency on Aging is considering pushing for a similar law.

"There's a tremendous need," said Joyce Lippman, director of the agency, known as the Central Coast Commission for Senior Citizens. "It would be so much nicer to have a statewide system. But our position here is that if we can't get something through the state, we have to do something. It's awful...Regulation equals protection. As far as I'm concerned, these individuals need protection."

Recommendations

The Legislature is currently considering two bills that would regulate California's in-home care industry. Our office embarked on this report before those bills were introduced, and so does not analyze them, as other legislative staff will do. Our recommendations are based on interviews with those in the field and an examination of caregiver criminal cases to find out what went wrong and how the crimes might have been prevented.

While the two bills before the Legislature both propose regulation of in-home care agencies and background checks for caregivers, some of our recommendations include measures short of full licensing. Others address problems that would not be solved by regulating in-home care agencies.

- The Legislature should consider legislation that would allow consumer reporting agencies to report convictions more than seven years old, as well as arrests that do not result in conviction, when the job applicant will be providing hands-on care to an elderly or dependent adult. For many types of jobs, the seven-year washout for criminal convictions makes sense. But considering the vulnerability of in-home care clients, and the opportunities for caregivers to exploit them, the Legislature should weigh carving out an exception to the consumer reporting rules.
- Under current California law, elderly and dependent adults hiring caregivers on their own are entitled to request a fingerprint-based criminal background check from the California Department of Justice. The problem is that most don't know about the law, how to request the background check or how to interpret the results. The Senate should consider legislation to create a public awareness campaign informing elderly and dependent adults of their options. Considering the ineffectiveness of a law that would have had IHSS public authorities facilitate background checks, the Legislature may want to consider some other mechanism for achieving the same result.

- The Legislature is already considering regulation of in-home care agencies. Our report suggests that this could be a good move for the state, in line with what most other large states already do. However, any regulation should focus on protecting consumers and not necessarily on the kinds of oversight that would be required of businesses that receive government money, such as auditing and inspections. This will keep down costs, allowing the industry to pay for its own regulation through annual fees. If the costs of the program and the attendant fees charged by agencies are too high, more consumers may be driven to hire on their own, leaving them vulnerable to the unregulated sector of the industry.
- The Legislature should consider legislation to create a family care protection registry. Such a registry would allow caregivers to voluntarily submit to a criminal background check in return for being included on the registry, which would be available to the public. The registry also could include the names of those who, because of administrative actions or crimes committed while in other health care jobs - such as certified nurse assistants or assisted living caregivers - should not be hired as a private caregiver. These databases already exist. This proposal would merely involve consolidating the data and publicizing its availability to Californians who are considering hiring a caregiver on their own.
- If the Legislature chooses not to approve bills to regulate in-home care agencies, it could consider legislation requiring agencies that advertise that they have done criminal background checks to adhere to certain standards. These standards could mirror what's required for CAHSAH-certification – an agency would be required to either do a fingerprint-based check through the Department of Justice and the FBI, or hire a consumer reporting agency to do county courthouse checks in the places where an applicant has lived.

Sources of information

The following people were interviewed for this report:

- Mary Adorno, Legislative Specialist, California Association of Health Services At Home
- Julie Basco, Chief of the Bureau of Criminal Information and Analysis, California Department of Justice
- Sherl Brand, President and CEO, Home Care Association of New Jersey
- Denise Collins, Chief Executive Office, Aunt Ann’s In-House Staffing
- Randy de Leon, Managing Director, Acclaim Homecare
- Lizabeth de Vries, San Francisco attorney
- Ken DeVore, Chief of Staff for Assemblyman Dan Logue, formerly Capitol Director for Senator Roy Ashburn
- Rebecca Friedman Zuber, Illinois health care regulations consultant
- Erwin Fromm, California Senior Legislature
- Rosalie Gonsolin
- Paul Greenwood, Head of Elder Abuse Prosecutions, San Diego District Attorney’s Office
- Allen Hager, Legislative Committee Chair, National Private Duty Association
- Glenn Hammer, founder and President of A Matter of Fact in Colfax
- Rochelle Hao, Deputy District Attorney, Sacramento County
- John Hubanks, Deputy District Attorney, Monterey County
- Patti Huston, Deputy Director for Legislation, California Department of Social Services
- Kellie Ikenberry
- Kathleen Jonas
- Rick Jury, Missouri Department of Health and Human Services
- Karen Keeslar, Executive Director of the California Association of Public Authorities
- S. Michael Lee, Deputy District Attorney, Santa Clara County
- Jordan Lindsey, Director of Policy and Public Affairs, California Association of Health Services At Home
- Joyce Lippman, Director, Central Coast Commission for Senior Citizens
- Sheila McMackin, President, National Private Duty Association

- Darlin Miller
- C.J. Mody, Deputy District Attorney, San Diego
- Sarah Myers, Executive Director, Oregon Association for Home Care
- Eric Oren, Fresno attorney
- Lynn Peterson, President, PFC Information Services, Inc.
- Barrie Pink, Deputy District Attorney, Orange County
- Lori Post, Associate Professor of Emergency Medicine at the Yale School of Medicine.
- Lester Rosen, an attorney and President of Employment Screening Resources in Novato
- Pamela Rossen, Board Leader, Nevada Homecare Association
- Kathleen Soswa
- Nancy Schulz, Program Manager, Napa County
- Marcia Tetterton, Executive Director, Virginia Association for Home Care
- Catherine Valcourt, policy analyst, Maine Department of Health and Human Services
- Douglas VanVlear, San Francisco attorney
- Tom Welin, Chief of Medical Facilities for the Oklahoma Department of Health.
- Mary Wiley, Assistant Director, Division of Licensing Services, Arizona Department of Health Services

The following documents, reports and other sources of information were used in this report:

- News accounts of caregiver crimes in the following media outlets: The Associated Press, Contra Costa Times, The Desert Sun, The Fresno Bee, KGO-TV, The Los Angeles Times, Marin Independent Journal, The Modesto Bee, Monterey County Herald, The Orange County Register, The Press Enterprise, Press-Telegram, The Sacramento Bee, The San Diego Union-Tribune, San Jose Mercury News, The San Luis Obispo Tribune, Ventura County Star, The Wall Street Journal
- Email correspondence with officials in various states
- “State Licensure Requirements for Person Care Services,” California Association of Health Services At Home
- “How Large is California’s Home Care Industry,” California Association of Health Services At Home

- Superior Court criminal records from the following counties: Contra Costa, Los Angeles, Orange, Riverside, Sacramento, Stanislaus, San Diego, Ventura
- Department of Social Services, chronology prepared for the Office of Oversight and Outcomes of day care facilities run by K.K.
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Senate Office of Oversight and Outcomes

1020 N Street, Suite 560

Sacramento, CA 95814

Telephone: (916) 651-1518

Facsimile: (916) 324-5927

<http://www.sen.ca.gov/oversight>

Special Counsel John Adkisson • john.adkisson@sen.ca.gov

Office Manager Cathy Cruz • cathy.cruz@sen.ca.gov

Principal Consultant John Hill • john.hill@sen.ca.gov

Principal Consultant Dorothy Korber • dorothy.korber@sen.ca.gov

Principal Consultant Nancy Vogel • nancy.vogel@sen.ca.gov

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